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# Contents

**Federal Register**

Vol. 86, No. 160

Monday, August 23, 2021

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

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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.

Federal Register
Vol. 86, No. 160
Monday, August 23, 2021

# Presidential Documents

**Title 3—**

## The President

**Memorandum of August 18, 2021**

## Ensuring a Safe Return to In-Person School for the Nation's Children

**Memorandum for the Secretary of Education**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1.** *Policy*. As the school year starts across the country, a top priority of my Administration is to do everything in our power to ensure a safe return to full-time, in-person school for our Nation's children. With increased access to vaccinations for school staff and students age 12 and older, proven virus prevention strategies, and unprecedented resources from the American Rescue Plan Act of 2021 (Public Law 117–2) (American Rescue Plan) and other Federal pandemic relief funds, opening all schools this fall for full-time, in-person learning is essential. At the same time, the Centers for Disease Control and Prevention (CDC) has made clear that, with the B.1.617.2 (Delta) variant driving an increase in COVID–19 cases nationally, it is critical for schools to protect students against exposure, especially given the number of children who are ineligible to obtain the vaccine at this time. The CDC has provided clear guidance to schools on how to adopt science-based strategies to prevent the spread of COVID–19, and the Department of Education has provided guidance to schools on how to reopen safely while addressing the academic, social, emotional, and mental health needs of our Nation's students.

Many Governors and other State and local officials have risen to the challenge of beginning the new school year safely and responsibly by implementing prevention and mitigation strategies to maximize the health and safety of students, educators, and staff. The Federal Government is supporting these efforts in critical ways. The American Rescue Plan provides significant support to schools to develop and implement science-based health protocols to prevent the spread of COVID–19. Additionally, the Federal Emergency Management Agency is reimbursing States, including their school districts, at 100 percent Federal cost share to support the safe reopening and operation of school facilities and to effectively maintain the health and safety of students, educators, and staff.

At the same time, however, some State governments have adopted policies and laws that interfere with the ability of schools and districts to keep our children safe during in-person learning. Some of these policies and laws have gone so far as to try to block school officials from adopting safety protocols aligned with recommendations from the CDC to protect students, educators, and staff. And some State officials have even threatened to impose personal financial consequences on school officials who are working tirelessly to put student health and safety first and to comply with their legal obligations to their communities to further the essential goal of a safe, in-person education for all students.

Our priority must be the safety of students, families, educators, and staff in our school communities. Nothing should interfere with this goal.

**Sec. 2.** *Department of Education Role in Ensuring a Safe Return to In-Person School*. (a) In furtherance of the policy set out in section 1 of this memorandum, I direct the Secretary of Education to assess all available

tools in taking action, as appropriate and consistent with applicable law, to ensure that:

(i) Governors and other officials are taking all appropriate steps to prepare for a safe return to school for our Nation's children, including not standing in the way of local leaders making such preparations; and

(ii) Governors and other officials are giving students the opportunity to participate and remain in safe full-time, in-person learning without compromising their health or the health of their families or communities.

(b) The Secretary of Education's assessment in subsection (a) of this section shall include consideration of whether to take steps toward the initiation of possible enforcement actions under applicable laws.

**Sec. 3.** *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

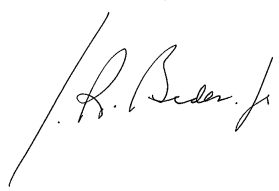
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
*Washington, August 18, 2021*

[FR Doc. 2021–18223
Filed 8–20–21; 8:45 am]
Billing code 4000–01–P

# Rules and Regulations

Federal Register
Vol. 86, No. 160
Monday, August 23, 2021



## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1026

### Technical Specifications for Credit Card Agreement and Data Submissions Required Under TILA and the CARD Act (Regulation Z)

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notification of technical specifications; procedural rule.

**SUMMARY:** Certain credit card issuers must submit credit card agreements and data to the Bureau of Consumer Financial Protection (Bureau) under the Truth in Lending Act (TILA) and the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act). The Bureau is issuing new technical specifications for complying with those submission requirements. Credit card issuers will make the required submissions under TILA and the CARD Act through the Bureau's ''Collect'' website. These technical specifications include registration information and the URL for the website at which issuers (or their designees) can submit the required information.

**DATES:** This notification of technical specifications and procedural rule becomes effective on August 23, 2021. Issuers must make submissions using the Collect website, in accordance with these technical specifications.

**FOR FURTHER INFORMATION CONTACT:** Yaritza Velez, Counsel or Caroline Hong, Senior Counsel, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov.* For technical assistance regarding the Collect website and submission system, contact *Collect_Support@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Submission Requirements

### *A. Submission of Data on Credit Card Pricing and Availability (Terms of Credit Card Plans Survey)*

#### The Statute

In 1988, Congress amended section 136 of the Truth in Lending Act (TILA) to require the Board of Governors of the Federal Reserve System (Board) to collect certain credit card price and availability information from a sample of credit card issuers and report this information to Congress and make it available to the public.[1] The responsibility to collect this information, through what is called the Terms of Credit Card Plans (TCCP) Survey, was transferred to the Bureau in 2011.[2]

Specifically, TILA section 136(b) requires the Bureau to collect, on a semiannual basis, credit card price and availability information, including the information required to be disclosed under section 127(c) of TILA, from a broad sample of financial institutions that offer credit card services. Section 127(c) of TILA lists requirements for disclosures in connection with credit and charge card applications and solicitations.[3]

TILA section 136(b) also requires that the sample of TCCP Survey respondents include the 25 largest issuers of credit cards and no less than 125 additional financial institutions selected by the Bureau in a manner that ensures an equitable geographic distribution within the sample and the representation of a wide spectrum of institutions within the sample.[4] Generally, the Bureau sends an email to each selected issuer requesting that it complete the TCCP Survey. Issuers that do not receive such an email from the Bureau do not need to complete the TCCP Survey.[5]

There are no implementing regulations for the core TCCP Survey collection requirement in TILA section 136(b). Issuers are required to submit their information ''to the Bureau in accordance with such regulations or orders as the Bureau may prescribe.'' [6]

#### The Submission Process

In 1990, the Board implemented a ''Report of Terms of Credit Card Plans Survey'' (FR 2572), in the form of a spreadsheet, to collect the TCCP Survey data elements from financial institutions (issuers) participating in the Survey.[7] The Board collected TCCP Survey responses using the FR 2572 form until 2011, when the collection of information for the TCCP Survey was formally transferred to the Bureau.[8] The Bureau has also used the FR 2572 form to collect information from selected issuers for the TCCP Survey.[9] TCCP Survey data must be reported twice a year, as of January 31 and July 31.[10] If selected by the Bureau to complete the TCCP Survey, an issuer would need to complete its Survey within 10 business days of the end of the Survey date (*e.g.,* February 14 or August 14, respectively). The information provided by the issuer

[1] Fair Credit and Charge Card Disclosure Act of 1988 (FCCCDA), Public Law 100–583, section 5, 102 Stat. 2960, 2967 (1988) (adding section 136(b) of TILA). TILA section 136(b) is codified at 15 U.S.C. 1646(b).

[2] Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, tit. X, section1100A(2), 124 Stat. 1376, 2107 (2010). The transfer of this authority, as a consumer protection function under TILA, became effective on July 21, 2011. *See* Dodd-Frank Act section 1061, 124 Stat. 2035–2039 (consumer financial protection functions to be transferred to the Bureau as of a designated transfer date); 75 FR 57252 (Sept. 20, 2010) (setting transfer date).

[3] TILA section 127(c) requires issuers to disclose, among other things, the annual percentage rate for purchases (must state if it is a variable rate); the length of the grace period; the name or description of the balance computation method; the fee for issuance or availability (membership fee); the minimum finance charge; the transaction fee for purchases; the transaction fee for cash advances; the fee for late payment; and the fee for exceeding the credit limit. 15 U.S.C. 1637(c).

[4] 15 U.S.C. 1646(b).

[5] Bureau of Consumer Fin. Prot., *Collect—TCCP User Guide* 2 (Jan. 2019), *https://files.consumerfinance.gov/f/documents/TCCP_User_Guide_Final.pdf.*

[6] 15 U.S.C. 1646(b)(3).

[7] *See* Bureau of Consumer Fin. Prot., *Supporting Statement Part A: Report of Terms of Credit Card Plans (Form FR 2572) (OMB Control Number: 3170–0001)* 1 (uploaded May 29, 2019), *https://www.reginfo.gov/public/do/DownloadDocument?objectID=91971901.*

[8] *See* Office of Mgmt. & Budget, *Notice of Office of Management and Budget Action* (Oct. 24, 2011), *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201110-3170-006#* (approving transfer of FR 2572 from the Board to the Bureau).

[9] *See, e.g.,* 84 FR 24764 (May 29, 2019) (notice of and requesting comments for renewal of Office of Management and Budget (OMB) approval for existing Report of Terms of Credit Card Plan information collection). The FR 2572 form is currently on the Bureau's website at *https://files.consumerfinance.gov/f/documents/bcfp_tccp-survey_form-2572_instructions.pdf.*

[10] Bureau of Consumer Fin. Prot., *Report of Terms of Credit Card Plans—Instructions* (*FR 2572),* page 1, *https://files.consumerfinance.gov/f/documents/bcfp_tccp-survey_form-2572_instructions.pdf.*

must be current as of the Survey date (*i.e.,* January 31 or July 31).[11]

Starting with the TCCP Survey cycle beginning on July 31, 2018, the Bureau has provided issuers with the voluntary option to make TCCP Survey submissions through its Collect website (Collect). The Bureau has also continued to accept TCCP Survey submissions using the FR 2572 form.

For the most recent TCCP Survey cycle beginning on January 31, 2021, 83 percent of TCCP Survey submissions were made via Collect. Collect has simplified the TCCP Survey submission process for issuers in several ways. For example, instructions in Collect are ''tiered'' so that the submitter only sees relevant questions, thus minimizing the possibility for confusion or error. Collect also avoids instructions that would lead to duplicative responsive information if the system determines that the information has already been provided earlier in the submission process. Additionally, Collect provides an audit trail that allows issuers to clearly verify whether and when each of their submissions has been received by the Bureau and review the contents of past submissions. Further, the Bureau has heard through its market outreach efforts that Survey respondents find Collect to be faster to use than the FR 2572 form, and that it allows them to more easily reference past submissions. The Bureau has also found that Collect facilitates faster processing of TCCP Survey submissions by Bureau staff, which in turn has led to the faster posting of the TCCP Survey results on the Bureau's website [12] and enhanced the public's ability to use the data in a timely manner. The Bureau believes that such gains to issuers, the public, and the Bureau would be increased if all TCCP Survey respondents used Collect, and that any additional burden on Survey respondents as a result of using Collect would be minimal.

In April 2019, the Bureau also started using Collect to receive prepaid account agreements and associated information from prepaid account issuers pursuant to 12 CFR 1005.19.[13] The Bureau has found that Collect also provides a streamlined electronic process for this collection that substantially benefits issuers, the public, and the Bureau.

For the reasons set forth above, issuers selected by the Bureau to participate in the TCCP Survey must submit their data using Collect, starting with the Survey cycle beginning on January 31, 2022, for which responses are due on February 14, 2022. Afterward, issuers selected by the Bureau to participate in future TCCP Surveys must also use Collect to submit their responses. Issuers selected by the Bureau to participate in the Survey who do not already use Collect can begin the registration process immediately.[14] Upon receiving their login credentials, issuers will be able to start submitting their Survey responses using Collect. See the Technical Specifications in part II below for additional information.

### *B. Quarterly Submission of Credit Card Agreements*

#### The Statute and Regulation

In 2009, Congress enacted the Credit Card Accountability Responsibility and Disclosure Act (CARD Act) in order to ''establish fair and transparent practices related to the extension of credit'' in the credit card market.[15] Section 204 of the CARD Act added new TILA section 122(d) to require creditors to post agreements for open-end consumer credit card plans on the creditors' websites and submit those agreements to the Board for posting on a publicly available website established and maintained by the Board.[16] The Board generally implemented the CARD Act's provisions in subpart G of Regulation Z.

Specifically, TILA section 122(d)(1) requires each creditor to post its credit card agreements on its own website, and section 122(d)(2) requires the creditor to provide its agreements to the Bureau (formerly the Board). TILA section 122(d)(3) requires the Bureau (formerly the Board) to establish and maintain on its publicly available website a central repository of the agreements it receives under section 122(d)(2). The Board implemented these provisions at 12 CFR 226.58. With the adoption of the Dodd-Frank Act, authority to implement TILA transferred to the Bureau,[17] and the Bureau renumbered this provision in Regulation Z as 12 CFR 1026.58.[18]

While TILA section 122(d) requires that creditors provide agreements to the Bureau, it does not specify the frequency or timing for these submissions. The implementing regulations in Regulation Z provide that a card issuer must make quarterly submissions to the Bureau ''in the form and manner specified by the Bureau,'' except as otherwise provided in the regulation.[19] Each submission must contain identifying information about the issuer and the agreements submitted; the credit card agreements that the issuer offered to the public as of the last business day of the preceding calendar quarter that the issuer has not previously submitted to the Bureau; any credit card agreement previously submitted to the Bureau that was amended during the preceding calendar quarter and that the issuer offered to the public as of the last business day of the preceding calendar quarter; and a notification regarding any credit card agreement previously submitted to the Bureau that the issuer is withdrawing.[20] If a credit card agreement has been previously submitted to the Bureau, the agreement has not been amended, and the card issuer continues to offer the agreement to the public, no additional submission regarding that agreement is required for that calendar quarter.[21] These quarterly submissions must be sent to the Bureau no later than the first business day on or after January 31, April 30, July 31, and October 31 of each year. The regulation also provides that, except in certain circumstances, card issuers must post and maintain on their publicly available websites the credit card agreements that the issuers are required to submit to the Bureau.[22]

The Bureau's implementing regulation at 12 CFR 1026.58(c)(8) provides requirements for the form and content of the quarterly credit card agreement submissions. One such requirement specifies that for each submitted ''agreement,'' the ''[p]ricing information must be set forth in a single addendum to the agreement.'' [23] The term ''agreement'' or ''credit card agreement'' is defined as ''the written document or documents evidencing the terms of the legal obligation, or the

[11] *See, e.g.,* Bureau of Consumer Fin. Prot., *TCCP Survey FAQs,* page 2 (Question 3) (last updated May 1, 2020), *https://files.consumerfinance.gov/f/documents/cfpb_tccp-survey_faq.pdf.*

[12] The Bureau's TCCP Survey database is available at *https://cfpb-sites.force.com/CreditCardPlanSurveys.*

[13] 84 FR 7979 (Mar. 6, 2019).

[14] Although TCCP Survey respondents currently have the ability to register for Collect, generally TCCP Survey respondents are not aware that they are required to participate in the Survey until receiving notification from the Bureau. As a result, new TCCP Survey Collect users would not need to register for Collect for the purpose of making TCCP Survey submissions until that time.

[15] Public Law 111–24, 123 Stat. 1734 (2009).

[16] 15 U.S.C. 1632(d).

[17] Public Law 111–203, section 1100A, 124 Stat. 2081 (2010). *See also supra* note 2.

[18] 76 FR 79768 (Dec. 22, 2011).

[19] 12 CFR 1026.58(c)(1). A credit card issuer is not required to submit a credit card agreement to the Bureau pursuant to 12 CFR 1026.58, if it qualifies for the de minimis exception in 12 CFR 1026.58(c)(5), the private label credit card exception in 12 CFR 1026.58(c)(6), or the product testing exception in 12 CFR 1026.58(c)(7).

[20] 12 CFR 1026.58(c)(1)(i) through (iv).

[21] 12 CFR 1026.58(c)(3).

[22] 12 CFR 1026.58(d).

[23] 12 CFR 1026.58(c)(8)(ii)(A). *See also* 12 CFR 1026, Comment 58(c)(8)–2 (''Pricing information must be set forth in the separate addendum described in 1026.58(c)(8)(ii)(A) even if it is also stated elsewhere in the agreement.'').

prospective legal obligation, between a card issuer and a consumer for a credit card account under an open-end (not home-secured) consumer credit plan'' and also includes pricing information.[24] Pricing information is defined to include certain information, including credit card annual percentage rates (APR) and fees and charges, among other things.[25] Provisions of the agreement other than the pricing information that may vary from one cardholder to another depending on the cardholder's creditworthiness or State of residence or other factors may be set forth in a single addendum to the agreement separate from the pricing information addendum.[26] This addendum is referred to as the variable terms addendum.

The Submission Process

Under the process established by the Board that was used by the Bureau until 2015 and updated as described below in 2016, credit card issuers submit agreements and agreement information to the Bureau manually via email.[27] On April 17, 2015, the Bureau issued a final rule temporarily suspending credit card issuers' obligations under 12 CFR 1026.58 to submit credit card agreements to the Bureau for a period of one year (*i.e.,* four quarterly submissions), in order to reduce burden while the Bureau worked to develop a more streamlined and automated electronic submission system.[28] When issuing the final rule, the Bureau explained that it believed the manual process ''may be unnecessarily cumbersome for issuers and may make issuers' own internal tracking of previously submitted agreements difficult'' and noted that ''the process for Bureau staff to manually review, catalog, and upload new or revised agreements to the Bureau's website, and to remove outdated agreements, can extend for several months after the quarterly submission deadline.'' [29] The Bureau also stated its intent to develop ''a more streamlined and automated electronic submission system'' that would both allow issuers to upload agreements directly to the Bureau's database and enable faster posting of agreements on the Bureau's website.[30]

The Bureau did not implement the submission system described above during the temporary one-year suspension period and instead posted updated submission instructions in 2016 to its website.[31] The updated submission process, which is currently in use, allows issuers to submit agreements by emailing weblinks to the agreements instead of attaching the agreements as Portable Document Format (PDF) files.[32] Issuers also continue to have the option to email the agreements as PDF files. However, the process for Bureau staff remains a time-consuming, manual process that extends for several months after each quarterly submission deadline. The process also provides no audit trail or automated verification mechanism by which issuers can confirm receipt of their submissions by the Bureau each quarter and review past quarters' submissions.

Soon after the one-year suspension expired, the Bureau developed and deployed Collect, which is currently used by the Bureau to receive TCCP Survey responses on a voluntary basis and prepaid account agreements and agreement information, as explained above. For the TCCP Survey, Collect has provided a streamlined and automated electronic submission system that is less burdensome and easier for issuers to use, and that has reduced Bureau staff processing time, provided a robust audit trail for submissions, and lessened the time between the dates of issuer submissions and availability of the information to the public. For the prepaid account agreement and information submissions, the Bureau has found that Collect also provides a streamlined electronic process that benefits issuers, the public, and the Bureau.

Therefore, for these reasons, issuers making credit card agreement submissions to the Bureau on a quarterly basis must make those submissions using Collect, starting with the submissions for the fourth quarter of calendar year 2021 that are due on January 31, 2022. Subsequent submissions must also be made using Collect, on an ongoing basis. Issuers who do not already use Collect can begin the registration process immediately. All issuers required to make quarterly credit card agreement submissions to the Bureau must register for Collect by November 1, 2021. Once the issuer receives its login credentials, the issuer will have the ability to review its current submissions and start making the required submissions using Collect, starting on December 1, 2021. See the Technical Specifications in part II below for additional information.

*C. Submission of College Credit Card Marketing Agreements and Data*

The Statute and Regulation

The CARD Act also added new TILA section 127(r), which requires credit card issuers to submit an annual report to the Bureau (formerly the Board) containing the terms and conditions of all business, marketing, promotional agreements, and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.[33] This document refers to those agreements as ''college credit card marketing agreements.'' Under TILA section 127(r), the Bureau (formerly the Board) is obligated to make an annual report listing such information to Congress and to also make the report available to the public.[34] The Board implemented these provisions at 12 CFR 226.57(d). As noted above, in 2011, the Dodd-Frank Act transferred the authority to implement TILA to the Bureau.[35] The Bureau renumbered this provision in Regulation Z as 12 CFR 1026.57(d).[36]

Section 1026.57(d) provides that card issuers that were parties to college credit card marketing agreements in effect at any time during a calendar year must submit an annual report to the Bureau regarding those agreements ''in the form and manner prescribed by the Bureau'' and specifies the information that the report must include.[37] Card

[24] 12 CFR 1026.58(b)(1).

[25] 12 CFR 1026.58(b)(7) (''pricing information'' refers to the information listed in 12 CFR 1026.6(b)(2)(i) through (b)(2)(xii)).

[26] 12 CFR 1026.58(c)(8)(iii).

[27] *See* 75 FR 7658, 7923 (Feb. 22, 2010) (technical specifications for the quarterly credit card submission included in Attachment I to the **Federal Register** notice); 81 FR 19467 (Apr. 5, 2016).

[28] *See* 12 CFR 1026.58(g); *see also* 80 FR 21153 (Apr. 17, 2015). Credit card issuers' obligations to post currently offered credit card agreements on their publicly available websites under 12 CFR 1026.58(d), and to make agreements for open accounts available to cardholders as required by 12 CFR 1026.58(e), were not affected by the suspension. *See* 80 FR 21153, 21155 (Apr. 17, 2015); *see also* 81 FR 19467 (Apr. 5, 2016) (notice of expiration of suspension).

[29] 80 FR 21153, 21154 (Apr. 17, 2015). The Bureau's database of credit card agreements is available at *http://www.consumerfinance.gov/credit-cards/agreements/.*

[30] 80 FR 21153, 21154 (Apr. 17, 2015).

[31] *See* 81 FR 19467 (Apr. 5, 2016).

[32] The current instructions for submitting credit card agreements to the Bureau are available at *https://files.consumerfinance.gov/f/documents/cfpb_card-agreements-submission-instructions.pdf.*

[33] CARD Act, Public Law 111–24, section 305, 123 Stat. 1734, 1749–1750. TILA section 127(r) is codified as 15 U.S.C. 1637(r).

[34] 15 U.S.C. 1637(r)(3).

[35] Public Law 111–203, section 1100A, 124 Stat. 2081 (2010). *See also supra* note 2.

[36] 76 FR 79768 (Dec. 22, 2011).

[37] Specifically, section 1026.57(d)(2) states that the annual report must include identifying

Continued

issuers are required to submit their annual reports for a given calendar year to the Bureau by the first business day on or after March 31 of the following calendar year.[38]

The Submission Process

The current process was first established by the Board in 2010 and has been left generally unchanged by the Bureau.[39] Under that process, credit card issuers manually submit their annual report data as PDFs (for agreements) and as tab-delimited plain text files or as a Microsoft Excel Workbook (for associated information) that they send to the Bureau primarily via email. As with the TCCP Survey and quarterly credit card agreement submissions, Bureau staff must then manually review, catalog, and upload college credit card marketing agreements and data to the Bureau's website,[40] which delays the provision of such information to the public.

Based on the Bureau's experience with issuer submissions through Collect as to the TCCP Survey and prepaid account agreements and agreement data, the Bureau believes that requiring issuers to submit college credit card marketing agreements and data using Collect will reduce the burden on issuers by eliminating the manual process and lessen the time required for Bureau staff to process the submissions and make the information available to the public. It will also provide a robust audit trail for issuers to track the receipt and contents of current and past submissions.

Therefore, for the above reasons, issuers must submit their annual reports related to college credit card marketing agreements and data using Collect, starting with the submissions that are due on March 31, 2022,[41] and continue to do so on an ongoing basis. That is, a card issuer that was a party to one or more college credit card marketing agreements in effect at any time during calendar year 2021 must use Collect to submit to the Bureau an annual report regarding those agreements by March 31, 2022. Subsequent annual submissions must also be made using Collect, on an ongoing basis. Issuers who do not already use Collect can begin the registration process immediately. Once the issuer receives its login credentials, the issuer will have the ability to start making the required submissions using Collect, starting in January 2022. See the Technical Specifications in part II below for additional information.

## II. Technical Specifications

### *A. Submission of Data on Credit Card Pricing and Availability (TCCP Survey)*

The Bureau has established Collect as the mandatory vehicle for submitting the TCCP Survey elements under TILA section 136(b).[42] Issuers that have been selected by the Bureau to participate in the TCCP Survey cycle beginning on January 31, 2022, must submit the required information using Collect within 10 business days at the end of the Survey date (*i.e.,* no later than February 14, 2022). Selected issuers must also use Collect to make submissions for future TCCP Survey cycles. Collect can be accessed at *https://collect.consumerfinance.gov.* Issuers can begin the registration process for Collect immediately. To register, Survey respondents that have not already registered for Collect must complete a registration form and submit it to *Collect_Support@cfpb.gov.*[43] The Collect registration form is available at *https://files.consumerfinance.gov/f/documents/cfpb_collect-registration.pdf.* Once respondents receive their login credentials, they will be able to submit their TCCP Survey information.[44]

Collect uses interactive forms to guide respondents through the submission process. After submitting certain identifying information as required by the statute, respondents will be prompted to input the TCCP Survey information into Collect.

*Compliance Resources*

For the TCCP Survey submissions required under TILA section 136(b), the Bureau has published compliance resources to assist respondents in using Collect, including a user guide, a quick reference guide, frequently asked questions, and a webinar. These resources are available on the Bureau's website at *https://www.consumerfinance.gov/data-research/credit-card-data/terms-credit-card-plans-survey/.* The Bureau plans to update this website, as needed, to reflect changes made by these technical specifications. For technical assistance related to TCCP Survey submissions, Survey respondents can contact the Bureau at *Collect_Support@cfpb.gov.*

### *B. Quarterly Submission of Credit Card Agreements*

The Bureau has established Collect as the mandatory vehicle for credit card agreement submissions that must be made to the Bureau on a quarterly basis, pursuant to 12 CFR 1026.58. Collect can be accessed at *https://collect.consumerfinance.gov.* Issuers must use Collect to make their fourth quarter of calendar year 2021 submissions that reflect their agreements in effect as of December 31, 2021, by January 31, 2022. Issuers must also use Collect to make future quarterly credit card agreement submissions. Issuers can begin the registration process for Collect immediately. To register, issuers that have not already registered for Collect must complete a registration form and submit it to *Collect_Support@cfpb.gov* by November 1, 2021.[45] The Collect registration form is available at *https://files.consumerfinance.gov/f/documents/cfpb_collect-registration.pdf.* Once submitters receive their login credentials, they will be able to review their current submissions and make the required submissions for the fourth

information about the card issuer and agreements submitted; a copy of any college credit card agreement to which the issuer was a party that was in effect at any time during the period covered by the report; a copy of any memorandum of understanding in effect at any time during the period covered by the report, as described by the regulation; the total dollar amount of any payments pursuant to a college credit card agreement from the card issuer to an institution of higher education or affiliated organization during the period covered by the report, and the method or formula used to determine such amounts; the total number of credit card accounts opened pursuant to any college credit card agreement during the period covered by the report; and the total number of credit card accounts opened pursuant to any such agreement that were open at the end of the period covered by the report.

[38] 12 CFR 1026.57(d)(3).

[39] *See* 75 FR 7658, 7923 (Feb. 22, 2010) (technical specifications for the quarterly credit card submission included in Attachment I to the **Federal Register** notice). The current technical specifications were updated by the Board on December 31, 2010, and are available on the Bureau's website, at *http://files.consumerfinance.gov/f/201603_cfpb_consumer-and-college-credit-card-agreement-submission.pdf.*

[40] The Bureau's college credit card marketing agreement and data website is available at *https://www.consumerfinance.gov/data-research/student-banking/marketing-agreements-and-data/.*

[41] The annual reports are due to the Bureau ''by the first business day on or after March 31 of the following calendar year.'' 12 CFR 1026.57(d)(3). Because March 31, 2022, falls on a Thursday, the 2022 deadline is March 31, 2022.

[42] 15 U.S.C. 1646(b).

[43] For questions concerning the registration form, please contact the Collect Support Team at *Collect_Support@cfpb.gov.*

[44] TCCP Survey respondents who have not used Collect previously are encouraged to register as early as possible after they have received notification from the Bureau that they are required to participate in the Survey, to confirm that they can successfully access the system. *See also* note 14.

[45] Issuers who are not otherwise registered for Collect (*i.e.,* because they are TCCP Survey respondents already registered for Collect) are encouraged to register as early as possible. For questions concerning the registration form, please contact the Collect Support Team at *Collect_Support@cfpb.gov.*

quarter of calendar year 2021 using Collect, starting on December 1, 2021.

Collect uses interactive forms to guide submitters through the submission process. After submitting certain identifying information as required by 12 CFR 1026.58(c)(1)(i), issuers will be prompted to upload the required documents using Collect. Issuers will be able to upload an agreement, a pricing addendum, and if applicable, a variable terms addendum. Pursuant to 12 CFR 1026.58(c)(8)(ii)(A), pricing information must be set forth in a single addendum, so an issuer must submit only one pricing addendum with each agreement.

File Format

Credit card agreements submitted through Collect must be in the PDF file format, and must be text-searchable, digitally created PDFs. These PDF files should not be scanned documents, otherwise known as ''image-only'' PDFs, as these are not text-searchable. For questions about file formats, please contact the Bureau at *Collect_Support@cfpb.gov.*

Compliance Resources

For quarterly credit card agreement submissions that must be made pursuant to 12 CFR 1026.58, the Bureau is developing compliance resources to assist issuers in using Collect, including a user guide, a quick reference guide, frequently asked questions, and a webinar. These resources will be available on the Bureau's website at a later date. For technical assistance regarding these submissions, issuers can contact the Bureau at *Collect_Support@cfpb.gov.*

*C. Submission of College Credit Card Marketing Agreements and Data*

The Bureau has established Collect as the mandatory vehicle for the submission of annual reports related to college credit card marketing agreements and data required under 12 CFR 1026.57. Issuers must use Collect to submit to the Bureau, no later than March 31, 2022, the required information for the college credit card marketing agreements to which the issuers were a party during calendar year 2021. Issuers must also use Collect to make future college credit card marketing agreement and data submissions. Collect can be accessed at *https://collect.consumerfinance.gov.* Issuers can begin the registration process for Collect immediately. To register, issuers that have not already registered for Collect must complete a registration form and submit it to *Collect_Support@cfpb.gov.*[46] The Collect registration form is available at *https://files.consumerfinance.gov/f/documents/cfpb_collect-registration.pdf.* Once submitters receive their login credentials, they will be able to make the required submissions using Collect, starting in January 2022.

Collect uses interactive forms to guide submitters through the submission process. After submitting certain identifying information as required by 12 CFR 1026.57(d)(2)(i), issuers will be prompted to submit the required college credit card marketing agreements and data into Collect.

File Format

College credit card marketing agreements submitted through Collect must be in the PDF file format, and must be text-searchable, digitally created PDFs, except where noted in the Bureau's compliance resources. For documents that must be text-searchable, these files should not be scanned documents, otherwise known as ''image-only'' PDFs, as these are not text-searchable. For questions about file formats, please contact the Bureau at *Collect_Support@cfpb.gov.*

Compliance Resources

For college credit card marketing agreement and data submissions that must be made under 12 CFR 1026.57, the Bureau is developing compliance resources to assist issuers in using Collect, including a user guide, a quick reference guide, frequently asked questions, and a webinar. These resources will be available on the Bureau's website at a later date. For technical assistance regarding these submissions, issuers can contact the Bureau at *Collect_Support@cfpb.gov.*

## III. Legal Authority

The Bureau is issuing this rule pursuant to its authority under section 1022(b)(1) of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial law.[47] The Bureau is also issuing this rule pursuant to TILA sections 105(a)[48] and 122(d)(5).[49] TILA section 105(a) authorizes the Bureau to prescribe regulations to carry out the purposes of TILA. TILA section 122(d)(5), regarding credit card agreements, authorizes the Bureau to promulgate regulations to implement section 122(d).

## IV. Regulatory Requirements

The Bureau has concluded that these technical specifications constitute a rule of agency organization, procedure, or practice exempt from the notice and comment rulemaking requirements under the Administrative Procedure Act (APA), pursuant to 5 U.S.C. 553(b). Because the procedural rule relates solely to agency procedure and practice, it is not substantive, and therefore is not subject to the 30-day delayed effective date for substantive rules under section 553(d) of the APA. Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.

## V. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[50] Federal agencies are generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB. The collections of information related to this rule have been previously reviewed and approved by OMB and assigned OMB Control Numbers 3170–0001 and 3170–0052. The Bureau has determined that these technical specifications do not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by OMB under the PRA. Rather, the Bureau estimates that these specifications will slightly reduce the cost burden for covered entities compared to existing submission practices.

## VI. Signing Authority

The Acting Director of the Bureau, David Uejio, having reviewed and approved this document, is delegating the authority to electronically sign this document to Laura Galban, a Bureau Federal Register Liaison, for purposes of publication in the **Federal Register**.

[46] Issuers who are not otherwise registered for Collect (*i.e.,* because they are TCCP Survey respondents already registered for Collect) are encouraged to register as early as possible. For questions concerning the registration form, please contact the Collect Support Team at *Collect_Support@cfpb.gov.*

[47] 12 U.S.C. 5512(b)(1).

[48] 15 U.S.C. 1604(a).

[49] 15 U.S.C. 1632(d)(5).

[50] 44 U.S.C. 3501 *et seq.*

Dated: August 18, 2021.

**Laura Galban,**

*Federal Register Liaison, Bureau of Consumer Financial Protection.*

[FR Doc. 2021–17994 Filed 8–20–21; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. FAA–2020–0893; Special Conditions No. 25–790–SC]**

## Special Conditions: Pro Star Aviation LLC, Bombardier Model CL–600–2B16 Airplanes; Installation of an Infrared Laser Countermeasure System

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

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for the Bombardier Model CL–600–2B16 (Bombardier) airplane. This airplane, as modified by Pro Star Aviation LLC (Pro Star Aviation), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a system that emits infrared laser energy outside the aircraft as a countermeasure against heat-seeking missiles. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Effective September 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Eric Peterson, Safety Risk Management Section, AIR–633, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3413; email *Eric.M.Peterson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On December 7, 2018, Pro Star Aviation applied for a supplemental type certificate to install a ''Large Aircraft Infrared Countermeasure (LAIRCM)'' system, which directs infrared laser energy toward heat-seeking missiles, on the Bombardier Model CL–600–2B16 airplane. This airplane, which is a derivative of the Bombardier Model CL–600 series airplanes currently approved under Type Certificate No. A21EA, is a twin-engine business jet with seating for 20 passengers and two crewmembers, and a maximum takeoff weight of 47,600 pounds.

### Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Pro Star Aviation must show that the Bombardier Model CL–600–2B16 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A21EA, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Bombardier Model CL–600–2B16 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Model CL–600–2B16 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

### Novel or Unusual Design Features

The Bombardier Model CL–600–2B16 airplane, as modified by Pro Star Aviation, will incorporate the following novel or unusual design feature:

A system that emits infrared laser energy outside the aircraft.

### Discussion

In recent years, in several incidents abroad, civilian aircraft were fired upon by man-portable air defense systems (MANPADS). This has led several companies to design and adapt systems like LAIRCM for installation on civilian aircraft, to protect those aircraft against heat-seeking missiles. Pro Star Aviation's LAIRCM system directs infrared laser energy toward an incoming missile, in an effort to interrupt the missile's tracking of the aircraft's heat.

Infrared laser energy can pose a hazard to persons on the aircraft, on the ground, and on other aircraft. The risk is heightened because infrared light is invisible to the human eye. Human exposure to infrared laser energy can result in eye and skin damage, and affect a flight crew's ability to control the aircraft. Infrared laser energy can also affect other aircraft, whether airborne or on the ground, and property, such as fuel trucks and airport equipment, in a manner that adversely affects aviation safety.

FAA design standards for transport category airplanes did not envisage that a design feature could project infrared laser energy outside the airplane. The FAA's design standards are inadequate to address this capability. Therefore, this system is a novel or unusual design feature, and the FAA has developed these special conditions to establish a level of safety equivalent to that of the regulations.

Special conditions are also warranted, per 14 CFR 21.16, because FAA design standards are inappropriate for this design feature. 14 CFR 25.1301 requires installed equipment to be of a design that is appropriate for its intended function. The FAA has no basis to determine whether this LAIRCM system will successfully perform its intended function of thwarting heat-seeking missiles.

*Ground Activation.* Condition 1 requires the design to have means to prevent inadvertent operation of the system while the airplane is on the ground, including during maintenance. These means must identify and address all foreseeable failure modes that may result in inadvertent operation. These modes include errors in airplane maintenance and operating procedures, such as erroneously setting the system to ''air'' mode while the airplane is on the ground. The applicant could show such failure modes, their risks, and how they will be addressed, by conducting safety assessments and incorporating prevention strategies into the design.

*In-Flight Activation.* Condition 2 requires that the system be designed so that in-flight operation does not result in damage to the airplane or to other aircraft, or injury to any person. To account for these effects, the applicant's analysis should include effects from the system's erroneous operation, from system failures, and from failures that may not be readily detectable prior to

flight (*i.e.,* latent failures). The applicant may address this condition through safety assessments and incorporation of prevention strategies into its design. The ''operation'' addressed by Condition 2 includes all operation of the system, whether intentional, inadvertent, or automatic.

*Markings, instructions, and other information.* Conditions 3, 4, and 5 are intended to protect certain categories of persons based upon their expected interaction with the system. These conditions require the design to supply certain safety information to these persons.

Condition 3 requires the design to provide pertinent laser-safety information to maintenance and service personnel at the location of the installation. At a minimum, such ''pertinent'' information will include information about potential hazards to persons who are using optical magnification devices, such as magnifying glasses or binoculars. The warning information should be consistent with the laser's classification in 21 CFR 1040.

Condition 4 requires the airplane instructions for continued airworthiness to contain the appropriate warnings related to the laser's classification. Like the warning information to be provided at the location of the laser system's installation, the purpose of this condition is to ensure any person maintaining the system is aware of the hazards, including those related to the use of magnifying glasses or binoculars.

Condition 5 requires the applicant to update the airplane operating limitations and information required under 14 CFR 25.1581. The airplane flight-manual supplement insert must describe the intended function of the LAIRCM system, its intended operation, and the phases of flight in which it may be used. The insert also must add a caution that describes the significant risk of injury the LAIRCM system poses to others while in proximity to other aircraft, airports, and populated areas.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

These special conditions, and the corresponding supplemental type certificate for the installation of this system, do not constitute approval to operate the system. FAA Advisory Circular 70–1, ''Outdoor Laser Operations,'' provides guidance on obtaining operational approval.

**Discussion of Comments**

The FAA issued Notice of Proposed Special Conditions No. 25–21–02–SC for the Bombardier Model CL–600–2B16 airplane, as modified by Pro Star Aviation, which was published in the **Federal Register** on June 24, 2021 (86 FR 33147). The FAA received one comment supporting the proposed special conditions as they apply to the installation of a LAIRCM system ''. . . on the specific model of aircraft.''

**Applicability**

As discussed above, these special conditions are applicable to the Bombardier Model CL–600–2B16 airplane with the Pro Star Aviation LAIRCM system installed. Should Pro Star Aviation apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A21EA to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

**Conclusion**

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability and affects only the applicant.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**Authority Citation**

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

**The Special Conditions**

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Bombardier Model CL–600–2B16 airplane with the LAIRCM system, as modified by Pro Star Aviation.

1. The system must have means that prevent the inadvertent activation of the system on the ground, including during airplane maintenance and ground handling. Such means must address all foreseeable failure modes and operating and maintenance errors.

2. The system must be designed so that its operation in-flight does not result in damage to the airplane or other aircraft, or injury to any person. Operation of the system must not be capable of compromising continued safe flight and landing of other aircraft and the airplane on which it is installed, either by direct damage, laser-reflective damage, or through distraction or incapacitation of crew.

3. Laser-safety information for maintaining or servicing the airplane must be prominently placarded on the airplane or LAIRCM system at the location of the laser installation.

4. Instructions for continued airworthiness for installation, removal, and maintenance of the LAIRCM system must contain warnings appropriate to the laser classification concerning the hazards associated with exposure to laser radiation. This includes instructions regarding potential hazards to personnel who are using optical magnification devices such as magnifying glasses or binoculars.

5. The airplane flight manual supplement (AFMS) must describe the intended functions of the installed laser systems, to include identifying the intended operations and phases of flight. The AFMS must state:

*CAUTION:* The operation of the installed laser system could pose significant risk of injury to others while in proximity to other aircraft, airports, and populated areas.

Issued in Washington, DC, on August 17, 2021.

**Erik Brown,**

*Acting Manager, Systems Policy Branch, Policy and Innovation Division, Aircraft Certification Service.*

[FR Doc. 2021–17979 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0373; Project Identifier MCAI–2020–01352–R; Amendment 39–21668; AD 2021–16–06]**

**RIN 2120–AA64**

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

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2020–19–11 for certain Leonardo S.p.a. Model A119 and AW119 MKII helicopters. AD 2020–19–11 required repetitive borescope inspections of the 90-degree tail rotor gearbox (TGB) and depending on the inspection results, removing the TGB from service. This AD was prompted by the determination that additional parts may be susceptible to the unsafe condition. This AD retains

the inspection requirements of AD 2020–19–11, and revises the compliance time and applicability. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective September 27, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 27, 2021.

**ADDRESSES:** For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://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. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0373.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0373; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy & Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *rao.edupuganti@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–19–11, Amendment 39–21254 (85 FR 59404, September 22, 2020) (AD 2020–19–11). AD 2020–19–11 applied to Leonardo S.p.a. Model A119 and AW119 MKII helicopters with TGB part number (P/N) 109–0440–06–101 or P/N 109–0440–06–105 having serial number (S/N) 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, installed. The NPRM published in the **Federal Register** on May 21, 2021 (86 FR 27538). In the NPRM, the FAA proposed to retain certain requirements of AD 2020–19–11, revise the compliance time for the repetitive inspections from intervals not to exceed 100 hours time-in-service (TIS) or 6 months to only intervals not to exceed 6 months, and revise the applicability paragraph by adding certain serial-numbered TGB shafts. The NPRM was prompted by EASA AD 2020–0206, dated September 30, 2020 (EASA AD 2020–0206), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Leonardo S.p.A. Helicopters, formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation. EASA advises that additional parts may be susceptible to similar occurrences and some TGB shafts could have been reinstalled on a TGB other than the one on which they were initially installed. This condition, if not addressed, could result in failure of the tail rotor, possibly resulting in reduced control of the helicopter.

Accordingly, EASA AD 2020–0206 retains the inspection requirements of EASA AD 2018–0156, dated July 24, 2018, which prompted AD 2020–19–11, for certain part-numbered TGB shafts and revises the definition of an affected part by adding certain serial-numbered TGB shafts.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA received no comments on the NPRM or on the determination of the costs.

**Conclusion**

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 reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters.

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

The FAA reviewed Leonardo Helicopters Alert Service Bulletin No. 119–090, Revision A, dated September 14, 2020. This service information specifies procedures for conducting an endoscope inspection of the internal surface of the TGB output shaft for corrosion. This service information also specifies replacing the TGB if corrosion is found.

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.

**Interim Action**

The FAA considers this AD to be an interim action.

**Differences Between This AD and the EASA AD**

EASA AD 2020–0206 uses flight hours to describe one compliance time, whereas this AD uses hours TIS. EASA AD 2020–0206 requires using an endoscope for inspection, whereas this AD requires inspecting with a borescope. EASA AD 2020–0206 defines the affected part as the 90-degree TGB shaft installed on TGB P/N 109–0440–06–01–101, whereas the applicability paragraph of this AD includes TGB P/N 109–0440–06–101 instead.

**Costs of Compliance**

The FAA estimates that this AD affects 134 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Borescope inspecting the TGB output shaft takes about 3 work-hours for an estimated cost of $255 per helicopter and $34,170 for the U.S. fleet per inspection cycle.

Replacing a TGB takes about 18 work-hours and parts cost about $49,000 (overhauled TGB) for an estimated cost of $50,530 per helicopter.

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

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under

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

**Regulatory Findings**

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

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

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

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

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

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

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

**The Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2020–19–11, Amendment 39–21254 (85 FR 59404, September 22, 2020); and

■ b. Adding the following new airworthiness directive:

**2021–16–06 Leonardo S.p.a.:** Amendment 39–21668; Docket No. FAA–2021–0373; Project Identifier MCAI–2020–01352–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective September 27, 2021.

**(b) Affected ADs**

This AD replaces AD 2020–19–11, Amendment 39–21254 (85 FR 59404, September 22, 2020).

**(c) Applicability**

This AD applies to Leonardo S.p.a. Model A119 and AW119 MKII helicopters, certificated in any category, with 90-degree tail rotor gearbox (TGB) part number (P/N) 109–0440–06–101 or 109–0440–06–105, and with TGB shaft P/N 109–0443–03–107 having a serial number (S/N) listed in Table 1 of Leonardo Helicopters Alert Service Bulletin No. 119–090, Revision A, dated September 14, 2020 (ASB 119–090), installed.

Note 1 to paragraph (c): A TGB shaft is also referred to as a mast gear assembly.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 6510, Tail Rotor Drive Shaft.

**(e) Unsafe Condition**

This AD was prompted by two occurrences of corrosion on the internal surface of the TGB shaft. The FAA is issuing this AD to detect corrosion of the TGB shaft. The unsafe condition, if not addressed, could result in failure of the tail rotor, possibly resulting in reduced control of the helicopter.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 25 hours time-in-service (TIS) or 3 months, whichever occurs first after the effective date of this AD, and thereafter at intervals not to exceed 6 months, borescope inspect the entire internal surface of the TGB shaft for corrosion. Refer to Detail A of Figure 1 of ASB 119–090, for a depiction of the entry point for the borescope. If there is corrosion, before further flight, remove the TGB from service.

(2) As of the effective date of this AD, do not install on any helicopter any TGB P/N 109–0440–06–101 or 109–0440–06–105 that has TGB shaft P/N 109–0443–03–107 having an S/N listed in Table 1 of ASB 119–090, unless the actions required by paragraph (g)(1) of this AD have been accomplished.

**(h) Special Flight Permits**

A special flight permit may be permitted provided that there are no passengers onboard.

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

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

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

**(j) Related Information**

(1) For more information about this AD, contact Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, Policy & Innovation Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2020–0206, dated September 30, 2020. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–0373.

**(k) Material Incorporated by Reference**

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

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

(i) Leonardo Helicopters Alert Service Bulletin No. 119–090, Revision A, dated September 14, 2020.

(ii) [Reserved]

(3) 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/.*

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

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

Issued on August 16, 2021.

**Ross Landes,**

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

[FR Doc. 2021–17951 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2021–0648; Amendment No. 71–53]**

**RIN 2120–AA66**

## Airspace Designations; Incorporation by Reference

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

**ACTION:** Final rule.

**SUMMARY:** This action amends 14 CFR part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order JO 7400.11F Airspace Designations and Reporting Points (the Order). This action also explains the procedures the FAA will use to amend the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points incorporated by reference.

**DATES:** These regulations are effective September 15, 2021, through September 15, 2022. The incorporation by reference of the Order is approved by the Director of the Federal Register as of September 15, 2021, through September 15, 2022.

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

**FOR FURTHER INFORMATION CONTACT:** Sarah A. Combs, Rules and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

## History

FAA Order JO 7400.11E, Airspace Designations and Reporting Points, effective September 15, 2020, listed Class A, B, C, D and E airspace areas; air traffic service routes; and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations 14 CFR 71.1, effective September 15, 2020, through September 15, 2021. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order JO 7400.11E in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of FAA Order JO 7400.11F, Airspace Designations and Reporting Points. The Director of the Federal Register has approved the incorporation by reference of the Order in 14 CFR 71.1, as of September 15, 2021, through September 15, 2022. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71 14 CFR 71.5, 71.15, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, and 71.901 are also updated to reflect the incorporation by reference of FAA Order JO 7400.11F.

## Availability and Summary of Documents for Incorporation by Reference

This document incorporates by reference FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, in 14 CFR 71.1. The Order is publicly available as listed in the **ADDRESSES** section of this final rule. The Order lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

## The Rule

This action amends 14 CFR part 71 to reflect the approval by the Director of the Federal Register of the incorporation by reference of the Order, effective September 15, 2021, through September 15, 2022. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order JO 7400.11F in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in 14 CFR 71.1.

FAA Order JO 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 action: (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. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operation requirements of the airspace listings incorporated by reference in part 71.

## 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 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.

■ 2. Section 71.1 is revised to read as follows:

### § 71.1 Applicability.

A listing for Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points can be found in FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552 (a) and 1 CFR part 51. The approval to incorporate by reference FAA Order JO 7400.11F is effective September 15, 2021, through September 15, 2022. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of the Order may be obtained from Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, (202) 267–8783. An electronic version of the Order is available on the FAA website at *http://www.faa.gov/air_traffic/publications.* Copies of FAA Order JO 7400.11F may be inspected in Docket No. FAA–2021–0648; Amendment No. 71–53, on *http://*

*www.regulations.gov.* A copy of FAA Order JO 7400.11F may be inspected at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

**§ 71.5 [Amended]**

■ 3. Section 71.5 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.15 [Amended]**

■ 4. Section 71.15 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.31 [Amended]**

■ 5. Section 71.31 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.33 [Amended]**

■ 6. Paragraph (c) of section 71.33 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.41 [Amended]**

■ 7. Section 71.41 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.51 [Amended]**

■ 8. Section 71.51 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.61 [Amended]**

■ 9. Section 71.61 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.71 [Amended]**

■ 10. Paragraphs (b), (c), (d), (e), and (f) of section 71.71 are amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

**§ 71.901 [Amended]**

■ 11. Paragraph (a) of section 71.901 is amended by removing the words ''FAA Order 7400.11E'' and adding, in their place, the words ''FAA Order JO 7400.11F.''

Issued in Washington, DC, on August 17, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021–17915 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### 19 CFR Chapter I

## Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

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

**ACTION:** Notification of continuation of temporary travel restrictions.

**SUMMARY:** This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. Such travel will be limited to ''essential travel,'' as further defined in this document.

**DATES:** These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on August 22, 2021, and will remain in effect until 11:59 p.m. EDT on September 21, 2021, unless amended or rescinded prior to that time.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

**SUPPLEMENTARY INFORMATION:**

### Background

On March 24, 2020, DHS published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico posed a ''specific threat to human life or national interests.'' DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on August 21, 2021.[2]

DHS continues to monitor and respond to the COVID–19 pandemic. As of the week of August 5, 2021, there have been over 200 million confirmed cases globally, with over 4 million confirmed deaths.[3] There have been over 36.1 million confirmed and probable cases within the United States,[4] over 1.4 million confirmed cases in Canada,[5] and over 2.9 million confirmed cases in Mexico.[6]

DHS also notes that the Delta variant is driving an increase in cases, hospitalizations, and deaths in the United States.[7] Canada and Mexico are also seeing increased case counts and deaths.[8]

[1] 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

[2] *See* 86 FR 38554 (July 22, 2021); 86 FR 32766 (June 23, 2021); 86 FR 27800 (May 24, 2021); 86 FR 21189 (Apr. 22, 2021); 86 FR 14813 (Mar. 19, 2021); 86 FR 10816 (Feb. 23, 2021); 86 FR 4967 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel.'' *See* 86 FR 38556 (July 22, 2021); 86 FR 32764 (June 23, 2021); 86 FR 27802 (May 24, 2021); 86 FR 21188 (Apr. 22, 2021); 86 FR 14812 (Mar. 19, 2021); 86 FR 10815 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Weekly Epidemiological Update (June 8, 2021), available at *https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports* (accessed Aug. 11, 2021).

[4] CDC, COVID Data Tracker: United States COVID–19 Cases, Deaths, and Laboratory Testing (NAATs) by State, Territory, and Jurisdiction, *https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days* (accessed Aug. 11, 2021).

[5] WHO, Situation by Region, Country, Territory & Area, available at *https://covid19.who.int/table* (accessed Aug. 11, 2021).

[6] *Id.*

[7] *See* CDC, Delta Variant: What We Know About the Science, *https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html* (accessed Aug. 16, 2021).

[8] *See* Government of Canada, Coronavirus Disease (COVID–19) For Health Professionals, *https://health-infobase.canada.ca/covid-19/*

Continued

**Notice of Action**

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico poses an ongoing ''specific threat to human life or national interests.''

In March 2020, U.S. and Mexican officials mutually determined that non-essential travel between the United States and Mexico posed additional risk of transmission and spread of the virus associated with COVID–19 and placed the populace of both nations at increased risk of contracting the virus associated with COVID–19. Given the sustained human-to-human transmission of the virus, coupled with risks posed by new variants, non-essential travel to the United States places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[9] I have determined that land ports of entry along the U.S.-Mexico border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on September 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat. In coordination with public health and medical experts, DHS continues working closely with its partners across the United States and internationally to determine how to safely and sustainably resume normal travel.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

[FR Doc. 2021–18061 Filed 8–20–21; 8:45 am]

**BILLING CODE 9112–FP–P**

*epidemiological-summary-covid-19-cases.html#VOC* (accessed Aug., 16, 2021). *See* Government of Mexico, Ministry of Health, COVID–19 National General Information, *https://datos.covid-19.conacyt.mx/#DOView* (accessed Aug. 16, 2021); Mexican Consortium of Genomic Surveillance (CoViGen-Mex), Reportes, *http://mexcov2.ibt.unam.mx:8080/COVID-TRACKER/* (accessed Aug. 16, 2021).

[9] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### 19 CFR Chapter I

## Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

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

**ACTION:** Notification of continuation of temporary travel restrictions.

**SUMMARY:** This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. Such travel will be limited to ''essential travel,'' as further defined in this document.

**DATES:** These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on August 22, 2021, and will remain in

effect until 11:59 p.m. EDT on September 21, 2021, unless amended or rescinded prior to that time.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

**SUPPLEMENTARY INFORMATION:**

## Background

On March 24, 2020, DHS published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada posed a ''specific threat to human life or national interests.'' DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on August 21, 2021.[2]

DHS continues to monitor and respond to the COVID–19 pandemic. As of the week of August 5, 2021, there have been over 200 million confirmed cases globally, with over 4 million confirmed deaths.[3] There have been over 36.1 million confirmed and probable cases within the United States,[4] over 1.4 million confirmed cases in Canada,[5] and over 2.9 million confirmed cases in Mexico.[6]

DHS also notes that the Delta variant is driving an increase in cases, hospitalizations, and deaths in the United States.[7] Canada and Mexico are also seeing increased case counts and deaths.[8]

## Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada poses an ongoing ''specific threat to human life or national interests.''

In March 2020, U.S. and Canadian officials mutually determined that non-essential travel between the United States and Canada posed additional risk of transmission and spread of the virus associated with COVID–19 and placed the populace of both nations at increased risk of contracting the virus associated with COVID–19. Given the sustained human-to-human transmission of the virus, coupled with risks posed by new variants, non-essential travel to the United States places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[9] I have determined that land ports of entry along the U.S.-Canada border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to

[1] 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

[2] *See* 86 FR 38556 (July 22, 2021); 86 FR 32764 (June 23, 2021); 86 FR 27802 (May 24, 2021); 86 FR 21188 (Apr. 22, 2021); 86 FR 14812 (Mar. 19, 2021); 86 FR 10815 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel.'' *See* 86 FR 38554 (July 22, 2021); 86 FR 32766 (June 23, 2021); 86 FR 27800 (May 24, 2021); 86 FR 21189 (Apr. 22, 2021); 86 FR 14813 (Mar. 19, 2021); 86 FR 10816 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Weekly Epidemiological Update (June 8, 2021), available at *https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports* (accessed Aug. 11, 2021).

[4] CDC, COVID Data Tracker: United States COVID–19 Cases, Deaths, and Laboratory Testing (NAATs) by State, Territory, and Jurisdiction, *https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days* (accessed Aug. 11, 2021).

[5] WHO, Situation by Region, Country, Territory & Area, available at *https://covid19.who.int/table* (accessed Aug. 11, 2021).

[6] *Id.*

[7] *See* CDC, Delta Variant: What We Know About the Science, *https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html* (accessed Aug. 16, 2021).

[8] *See* Government of Canada, Coronavirus Disease (COVID–19) For Health Professionals, *https://health-infobase.canada.ca/covid-19/epidemiological-summary-covid-19-cases.html#VOC* (accessed Aug., 16, 2021). *See* Government of Mexico, Ministry of Health, COVID–19 National General Information, *https://datos.covid-19.conacyt.mx/#DOView* (accessed Aug. 16, 2021); *Mexican Consortium of Genomic Surveillance (CoViGen-Mex), Reportes, http://mexcov2.ibt.unam.mx:8080/COVID–TRACKER/* (accessed Aug. 16, 2021).

[9] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);

- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on September 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat. In coordination with public health and medical experts, DHS continues working closely with its partners across the United States and internationally to determine how to safely and sustainably resume normal travel.

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

[FR Doc. 2021–18060 Filed 8–20–21; 8:45 am]

**BILLING CODE 9112–FP–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2020–0647]**

**RIN 1625–AA09**

## Drawbridge Operation Regulation; New Jersey Intracoastal Waterway, Point Pleasant, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulation that governs the Route 88 (Veterans Memorial) Bridge and Route 13 (Lovelandtown) Bridge across the NJICW at Point Pleasant Canal, mile 3.0 and 3.9, respectively at Point Pleasant, NJ. The final rule allows the drawbridges to be maintained in the closed position overnight.

**DATES:** The rule is effective September 22, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2020–0647. In the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Mr. Mickey Sanders, Bridge Administration Branch, Fifth District, U.S. Coast Guard, telephone (757) 398–6587, email *Mickey.D.Sanders2@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code
NJICW New Jersey Intracoastal Waterway

### II. Background, Purpose and Legal Basis

On March 26, 2021, we published a noticed of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; New Jersey Intracoastal Waterway, Point Pleasant, NJ in the **Federal Register** (86 FR 16153). We received no comments on this rule. The Route 88 (Veterans Memorial) Bridge across the NJICW at Point Pleasant Canal, mile 3.0, at Point Pleasant, NJ, has a vertical clearance of 10 feet above mean high water in the closed-to-navigation position. The bridge currently operates under 33 CFR 117.5.

The Route 13 (Lovelandtown) Bridge across the NJICW at Point Pleasant Canal, mile 3.9, at Point Pleasant, NJ, has a vertical clearance of 30 feet above mean high water in the closed-to-navigation position. The bridge currently operates under 33 CFR 117.5.

The Point Pleasant Canal is used predominately by recreational vessels and pleasure craft. The three-year average number of bridge openings, maximum number of bridge openings, and bridge openings between 11 p.m. to 7 a.m., by month and overall for August 2017, through August 2020, as drawn from the data contained in the bridge tender logs, is presented below. There is a monthly average of two bridge openings for each bridge, from 11 p.m. to 7 a.m., from August 2017 to August 2020.

| Month | Average openings | Maximum openings | Average openings 11 p.m.–7 a.m. |
|---|---|---|---|
| January | 4 | 14 | 0 |
| February | 2 | 7 | 0 |
| March | 7 | 21 | 0 |
| April | 24 | 72 | 2 |
| May | 51 | 154 | 6 |
| June | 74 | 223 | 18 |
| July | 125 | 376 | 20 |
| August | 101 | 407 | 20 |
| September | 63 | 190 | 8 |
| October | 51 | 155 | 6 |
| November | 29 | 89 | 7 |
| December | 16 | 49 | 1 |

## III. Discussion of Final Rule

The bridge owner requested to modify the operating regulation for the bridges, due to the limited number of requested openings of the bridges from 11 p.m. to 7 a.m., over a period of approximately three years. The data presented in the table above demonstrates that the requested modification may be implemented with de minimis impact to navigation. The modification will allow the drawbridges to be maintained in the closed position from 11:01 p.m. to 6:59 a.m. and shall open on signal, if at least four hours advance notice is given.

## IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. This regulatory action determination is based on the fact that an average of only two bridge openings occurred per month from 11 p.m. to 7 a.m., from August 2017 through August 2020.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 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 received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridges 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.

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 contact 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 rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This rule would call for no 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 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.

### *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 Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Revise § 117.733 as follows:
■ a. Remove paragraphs (i) and (k);
■ b. Redesignate paragraph (j) as paragraph (k);
■ c. Redesignate paragraphs (b) through (h) as (d) through (i), and;
■ d. Add new paragraphs (b) and (c).

The additions read as follows:

### § 117.733 New Jersey Intracoastal Waterway.

* * * * *

(b) The draw of the Route 88 Bridge, mile 3.0, across Point Pleasant Canal at Point Pleasant, shall operate as follows:

(1) From 7 a.m. to 11 p.m. the draw shall open on signal.

(2) From 11:01 p.m. to 6:59 a.m. the draw shall open on signal, if at least four hours advance notice is given.

(c) The draw of the Route 13 Bridge, mile 3.9, across Point Pleasant Canal at Point Pleasant, shall operate as follows:

(1) From 7 a.m. to 11 p.m. the draw shall open on signal.

(2) From 11:01 p.m. to 6:59 a.m. the draw shall open on signal, if at least four hours advance notice is given.

* * * * *

Dated: August 9, 2021.

**L.M. Dickey,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 2021–18063 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2021–0338]**

**RIN 1625–AA00**

## Safety Zone; Barge Big Digger and Tugs Kimberly Anne and Andrew J Operating in the Straits of Mackinac, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary interim rule with request for comment.

**SUMMARY:** This rule amends an earlier safety zone titled ''Safety Zone; Tugs Kimberly Anne and Westwind and Barge Big Digger Operating in the Straits of Mackinac, MI'' issued on May 26, 2021, because one of the tug vessels named in the earlier rule has changed. The size, duration, and purpose of the safety zone remains the same. This rule continues to restrict entry into a 500-yard radius around two tugs and a barge engaged in pipeline-related work in the Straits of Mackinac. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards created by the work, inspection, diving, and surveying of pipelines in the Straits of Mackinac.

**DATES:** This interim rule is effective without actual notice from August 23, 2021 through October 15, 2021. Comments and related material must be received by the Coast Guard on or before September 22, 2021.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0338 using the Federal eRulemaking Portal at *http://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 on this rule, call or email LT Deaven Palenzuela, Sector Sault Sainte Marie Waterways Management Division, U.S. Coast Guard at (906) 635–3223 or email *ssmprevention@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Abbreviations

DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
§ Section
U.S.C. United States Code

### II. Background, Purpose, and Legal Basis

On May 26, 2021, the Coast Guard published a temporary interim rule, at 86 FR 28268, that established a temporary safety zone around the tug vessels KIMBERLY ANNE and WESTWIND, as well as barge BIG DIGGER. This safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards created by the work, inspection, diving, and surveying of pipelines in the Straits of Mackinac. In July 2021, the construction company notified the Coast Guard that it needed to switch out the tug vessel WESTWIND for the tug vessel ANDREW J. This interim rule amends the existing safety zone to remove the name of the tug vessel WESTWIND and replace it with the name of the tug ANDREW J.

The Coast Guard is issuing this temporary interim rule without undergoing notice and comment procedures pursuant to 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 public 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 unnecessary. The pipeline work is ongoing and the barge is on site, and the unexpected switch of attending tug vessel did not allow time for meaningful public comment before making the change. Moreover, the change to the specific tug vessel attending the barge BIG DIGGER does not change the scope, timing, or other details of the ongoing work, and is therefore of little interest to the public.

Because this safety zone will be in place until October 15, however, there is time to provide a 30-day public comment period after the effective date of this rule. The Coast Guard will consider all public comments received, and may change the rule in response to comments if doing so is appropriate.

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**. For the same reasons discussed above, delaying the effective date of this rule would be impracticable and unnecessary.

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards created by the work, inspection, diving, and surveying of underwater infrastructure in the Straits of Mackinac that started June 1, 2021, will be a safety concern for anyone within a 500-yard radius of the tugs and barge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the operation is conducted.

### III. Discussion of the Rule

This rule revises an existing safety zone that is anticipated to continue until October 15, 2021. The safety zone continues to cover all navigable waters within 500 yards of the barge BIG DIGGER and its attending tugs, which are being used to work, inspect, dive, and survey pipelines in the Straits of Mackinac. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the operation is conducted. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The only change this rule makes to the existing safety zone is a change to the specific tug named.

### IV. 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 protesters.

#### *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 and location of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small area of the Straits of Mackinac. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

*B. Impact on Small Entities*

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

*D. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

*E. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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 Executive Order 13132 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.

*F. Unfunded Mandates*

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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*M. Environment*

We have analyzed this rule under Department of Homeland Security Management 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 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 rule involves a safety zone that will prohibit entry within 500 yards of tugs and barges used to used to work, inspect, dive, and survey pipelines in the Straits of Mackinac. It is categorically excluded from further review under paragraph L[60(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.

## 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 *http://www.regulations.gov.* If your material cannot be submitted using *http://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).

To view documents mentioned as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that

address the topic of the rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

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

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

For the reasons discussed in the preamble, the Coast Guard 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, Revision No. 01.2.

■ 2. Amend § 165.T09–0338 by revising the section heading and paragraph (a) to read as follows:

**§ 165.T09–0338 Safety Zone; Tugs Kimberly Anne and Andrew J and Barge Big Digger operating in the Straits of Mackinac, MI.**

(a) *Location.* The following areas are safety zones: All navigable water within 500 yards of the Tugs Kimberly Anne and Andrew J and Barge Big Digger while conducting work, inspection, diving, and surveying of pipelines in the Straits of Mackinac.

* * * * *

Dated: August 9, 2021.

**A.R. Jones,**

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

[FR Doc. 2021–17337 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2021–0650]**

**RIN 1625–AA00**

## Safety Zone; Potomac River, Between Charles County, MD and King George County, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters in the Potomac River. This action is necessary to provide for the safety of persons, property, and the marine environment from the potential safety hazards associated with construction operations at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge, which will occur from 7 a.m. on August 23, 2021, through 8 p.m. on September 11, 2021. This rule will 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.

**DATES:** This rule is effective from 7 a.m. on August 23, 2021, through 8 p.m. on September 11, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0650 in the ''SEARCH'' box and click ''SEARCH.'' Click on DOCUMENTS on the line associated with this rule below ''SEARCH''.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ron Houck, Sector Maryland-NCR, 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 Information and Regulatory History

On August 5, 2021, Skanska-Corman-McLean, Joint Venture, notified the Coast Guard that from 7 a.m. on August 23, 2021, to 8 p.m. on September 11, 2021, it will be setting 200-ton pre-cast fender ring elements at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge at Pier 43, which is adjacent and to the west of the federal navigation channel. The operation requires the daily movement in, anchoring, and movement out of a large crane, as well as nighttime diver work. This operation will impede vessels requiring the use of the channel.

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 contrary to the public interest. Construction operations involving simultaneous crane heavy lifts at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge must occur within the federal navigation channel. Immediate action is needed to respond to the potential safety hazards associated with bridge construction. Hazards from the construction operations include low-hanging or falling ropes, cables, large piles and cement cast portions, dangerous projectiles, and or other debris. We must establish this safety zone by August 23, 2021, to guard against these hazards.

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 and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with construction operations at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge conducted within the federal navigation channel.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP Maryland-National Capital Region has determined that potential hazards associated with bridge construction starting August 23, 2021, will be a safety concern for anyone within the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge construction site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being constructed.

### IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. on August 23, 2021, through 8 p.m. on September 11, 2021. The safety zone will cover all navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′50.96″ N, 076°59′22.04″ W, thence south to 38°21′43.08″ N, 076°59′20.55″ W, thence west to 38°21′41.00″ N, 076°59′34.90″ W, thence north to

38°21′48.90″ N, 076°59′36.80″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA. The regulated area is approximately 450 yards in width and 270 yards in length.

This regulation requires that the bridge owner post a sign facing the northern and southern approaches of the navigation channel labeled ''BRIDGE WORK—DANGER—STAY AWAY'' affixed to the sides of the on-scene marine equipment and vessels operating within the area of the safety zone. This provides on-scene notice of the safety zone. This notice will consist of a diamond shaped sign (minimum 4 feet by 4 feet) with a 3-inch orange retro reflective border. The word ''DANGER'' will be 10 inch black block letters centered on the sign with the words ''BRIDGE WORK'' and ''STAY AWAY'' in 6 inch black block letters placed above and below the word ''DANGER,'' respectively, on a white background.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the tub sections are being set at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge at Pier 43, which is adjacent and to the west of the federal navigation channel. Except for marine equipment and vessels operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors, no vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The COTP will 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).

## 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 size and duration of the safety zone. We anticipate that there will be no vessels that are unable to conduct business. Excursion vessels and commercial fishing vessels are not impacted by this rulemaking. Excusion vessels do not operate in this area, and commercial fishing vessels are not impacted because of their draft. Some towing vessels may be impacted. But, bridge project personnel have been conducting outreach throughout the project in order to coordinate with those vessels. Vessel traffic not required to use the navigation channel will be able to safely transit around the safety zone. Such vessels may be able to transit to the east of the federal navigation channel, as similar vertical clearance and water depth exist under the next bridge span to the east. This safety zone will impact a small designated area of the Potomac River for 18 total enforcement days but coincides with the non-peak season for recreational boating.

### *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 18 total days that will prohibit entry within a portion of the Potomac River. 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.T05–0650 to read as follows:

### § 165.T05–0650 Safety Zone; Potomac River, Between Charles County, MD and King George County, VA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′50.96″ N, 076°59′22.04″ W, thence south to 38°21′43.08″ N, 076°59′20.55″ W, thence west to 38°21′41.00″ N, 076°59′34.90″ W, thence north to 38°21′48.90″ N, 076°59′36.80″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA. 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 any Coast Guard commissioned, warrant, or petty officer, 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.

*Marine equipment* means any vessel, barge or other equipment operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors.

(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 number 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.* This safety zone will be enforced during the period described in paragraph (f) of this section. A ''BRIDGE WORK—DANGER—STAY AWAY'' sign facing the northern and southern approaches of the navigation channel will be posted onthe sides of the marine equipment on-scene within the location described in paragraph (a) of this section.

(f) *Enforcement period.* This section will be enforced from 7 a.m. on August 23, 2021, through 8 p.m. on September 11, 2021.

Dated: August 17, 2021.

**David E. O'Connell,**

*Commander, U.S. Coast Guard, Captain of the Port Sector Maryland-National Capital Region.*

[FR Doc. 2021–17978 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF EDUCATION

### 34 CFR Parts 674, 682 and 685

**[Docket ID ED–2019–FSA–0115]**

**RIN 1840–AD48**

## Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Department of Education (Department) adopts as final regulations, with changes, the interim final regulations for total and permanent disability (TPD) student loan discharge.

**DATES:**

*Effective date:* These regulations are effective July 1, 2022.

*Implementation date:* For the implementation date of these regulatory changes, see the Implementation Date of These Regulations section of this document.

**FOR FURTHER INFORMATION CONTACT:** Jennifer M. Hong, Director, Policy Coordination Group, U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW, Washington, DC 20202–2241. Telephone: (202)453–7805. Email: *jennifer.hong@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### Executive Summary

*Purpose of This Regulatory Action:* On November 26, 2019, the Department published in the **Federal Register** (84 FR 65000) an interim final rule (IFR) to amend and update the regulations for TPD student loan discharge for veterans by removing administrative burdens that may have prevented at least 20,000 totally and permanently disabled veterans from obtaining discharges for their student loans. These final regulations adopt and amend the regulations established in the IFR as further described below. These regulations do not address the process of obtaining a TPD student loan discharge through the physician's certification process.

Summary of Major Provisions of This Regulatory Action:

These regulations—

• Expand the automatic discharge process to borrowers who are eligible for TPD loan discharge through their SSA

data. Borrowers who qualify for TPD through Social Security Administration (SSA) data are those who are eligible for Social Security Disability Insurance (SSDI) and/or Supplemental Security Income (SSI) benefits and whose next scheduled disability review is no earlier than five nor later than seven years;

- Clarify that borrowers determined to be eligible for a TPD discharge based on data that the Secretary obtains from the Department of Veterans Affairs (VA) or the SSA are not required to submit a TPD application to have their Federal student loans discharged;
- Describe the process by which the Secretary will automatically discharge the Federal student loans of a borrower who is determined to be eligible for a TPD discharge based on data obtained from either VA or the SSA, unless the borrower notifies the Secretary by a specified date that the borrower does not wish to receive the discharge;
- Specify the contents of the notice the Secretary sends to borrowers who are determined to be eligible for a TPD discharge based on data that the Secretary obtains from VA or from the SSA; and
- Provide for the return of payments to the person who made payments on the loan on or after the effective date of the determination by VA or SSA for borrowers who receive the automatic TPD discharge.

*Authority for this Regulatory Action:* Section 410 of the General Education Provisions Act provides the Secretary with authority to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operations of, and governing the applicable programs administered by, the Department. 20 U.S.C. 1221e–3. Furthermore, under section 414 of the Department of Education Organization Act, the Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department. 20 U.S.C. 3474. Under 20 U.S.C. 1087(a)(1)(FFEL), 20 U.S.C. 1087a(b)(2)(Direct Loans), and 20 U.S.C. 1087dd(c)(1)(F)(ii)(Perkins), the Department has authority to cancel or discharge certain loans due to a total and permanent disability.

*Costs and Benefits:* Veterans and recipients of SSDI and/or SSI benefits who qualify for a TPD discharge will benefit from these final regulations. Qualifying veterans and recipients of SSDI and/or SSI benefits will be relieved of a financial burden related to Federal student loans, including the stress associated with repayment or potential defaults and collections. This final rule should result in a quicker, more efficient process and many more qualified borrowers receiving the discharge to which they are legally entitled. In addition, the paperwork burden will be reduced as no application will be needed for borrowers who qualify for an automatic TPD discharge.

*Implementation Date of These Regulations:* Section 482(c) of the HEA requires that regulations affecting programs under title IV of the HEA be published in final form by November 1, prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier, as well as the conditions of early implementation.

The Secretary is exercising his authority under section 482(c) of the HEA to designate the regulatory changes to parts 674, 682, and 685 of the Code of Federal Regulations included in this document for early implementation effective September 30, 2021. The Secretary takes this action for the reasons set forth in the Summary, Background, and Need for Regulatory Actions sections included in this document.

*Public Comments:* When the IFR was published in the **Federal Register** on November 26, 2019 (84 FR 65000), the Department requested public comment on whether we should make any changes to the interim final regulations. We received 18 comments. The final regulations include changes from the IFR.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes, or recommended changes that the law does not authorize the Secretary to make.

*Analysis of Comments and Changes:* An analysis of the comments and of the changes in the regulations since publication of the IFR follows.

**General Comments**

*Comments:* Commenters were generally supportive of the provision added by the IFR stating that veterans who are identified as eligible for TPD discharge based on data that the Secretary obtains from VA are not required to provide any additional documentation to have their loans automatically discharged, noting it reduces burden on disabled veterans. Several commenters explained that many disabled veterans lack a supportive caregiver who can assist them in the application process and ensure that they understand the implications of not having their Federal student loans discharged. The commenters further noted that many veterans who received letters notifying them that they were eligible for discharge, and that to receive the discharge they needed only to sign and submit a TPD discharge application, failed to subsequently submit an application. These commenters stated that these veterans are clearly eligible for the discharge, and they are pleased that the Department is making it easier for them to have their loans discharged.

*Discussion:* We thank the commenters for their support. We note that the IFR, which provided that veterans identified as TPD based on data obtained from VA are not required to submit additional documentation to have their loans discharged, may not have made it sufficiently clear that ''additional documentation'' meant a TPD discharge application. Therefore, we are clarifying this point in the final regulations.

*Changes:* In final §§ 674.61(d), 682.402(c)(10), and 685.213(d), we have clarified that a borrower who qualifies for a TPD discharge based on data obtained from VA or from the SSA is not required to submit a TPD application, or any other documentation of eligibility for discharge.

*Comments:* One commenter expressed concern that the automatic discharge process was paused because the regulations that were previously in effect required borrowers to submit a discharge application. Another commenter asked that the Department provide a copy of the Office of Management and Budget memo that determined rulemaking was required before the Department could discharge veterans' loans without an application.

*Discussion:* As we explained in the IFR, former Secretary Betsy DeVos exercised her authority under section 482(c) of the Higher Education Act of 1965, as amended (HEA), to designate the regulatory changes to parts 674, 682, and 685 of the Code of Federal Regulations, as reflected in the IFR, for early implementation effective immediately. Accordingly, the automatic TPD discharge process for veterans identified as eligible for discharge based on data obtained from VA was implemented immediately upon publication of the IFR.

We have forwarded the request for the Office of Management and Budget memo to the Department's Freedom of Information Act (FOIA) Service Center. All FOIA requests made to the

Department are handled by the Department's FOIA Service Center.

*Changes:* None.

*Comment:* One commenter suggested that VA should be more involved in communicating to veterans regarding the discharge process. The commenter was concerned that some veterans might think the discharge letter was ''too good to be true'' since it was not something they had asked for. The commenter stated that if VA were more involved in the process, it might be able to confirm the validity of the letter and assist veterans in understanding the ramifications of allowing the discharge to go forward versus opting out of the discharge.

*Discussion:* The Department plans to work closely with VA in implementing these regulations. However, we believe that the notification of eligibility for the TPD discharge should come from the Department, not VA. The notification relates to student loan programs administered by the Department, not to any VA benefit program. If a borrower has questions about the notification, the borrower should contact the Department, not VA.

*Changes:* None.

*Opt-Out Provision (§§ 674.61(e)(1), 682.402(c)(11)(i), 685.213(e)(1))*

*Comment:* One commenter was concerned that the automatic discharge process could harm a veteran who is enrolled in school and obtaining loans and recommended that the Department include the opt-out provision discussed in the preamble to the IFR.

Another commenter urged the Department to consider the moral hazard of lending to a borrower who has been deemed unable to work prior to or concurrent with enrollment.

*Discussion:* As suggested by the first commenter, a veteran who is enrolled in school and receiving loans might wish to opt out of the automatic discharge so that the veteran could continue receiving loans without having to meet the additional eligibility requirements that apply to borrowers seeking new loans after having previously received a TPD discharge of earlier loans. We agree with the first commenter that we should include the opt-out provision in the regulatory language.

We do not agree with the commenter who suggested that providing an opt-out provision creates a moral hazard that is sufficiently worrisome to outweigh the benefits of providing automatic discharges. As noted in the Regulatory Impact Analysis the opt out rate for borrowers identified through the VA process was just four percent through the two rounds of discharges processed since September 2019. This suggests the opt out is used in rare circumstances and is not a widespread practice that would indicate a significant moral hazard. Veterans who qualify for automatic TPD discharges, as well as recipients of SSDI and/or SSI benefits, should have the ability to decline the discharge without fear that declining the discharge will affect their ability to continue to obtain Federal student loans.

*Changes:* In §§ 674.61(e)(1), 682.402(c)(11)(i), and 685.213(e)(1), we have specified that the notification to a borrower of eligibility for an automatic TPD discharge informs the borrower that the borrower may opt out of the discharge. We have revised §§ 674.61(e)(5), 682.402(c)(11)(vii), and 685.213(e)(3) to clarify that, if borrowers choose not to receive the automatic TPD discharge, they remain responsible for repaying the loan in accordance with the terms and conditions of the promissory note that the borrower signed.

*Post-Discharge Monitoring Period*

*Comments:* One commenter urged the Department to make it clear to borrowers that if they accept the TPD discharge, there will be a monitoring period that may prevent the borrower from receiving loans in the immediate future, and that these borrowers would need a physician's certification if they are going to use loans to return to school.

*Discussion:* For TPD discharges based on a disability determination from VA, there is no post-discharge monitoring period. 20 U.S.C. 1087(a)(2). However, under §§ 674.9(g)(1) and (2), 682.201(a)(6)(i) and (ii), and 685.200(a)(1)(iv)(A)(*1*) and (*2*), once borrowers' loans have been discharged due to TPD, they cannot obtain additional Federal student loans unless the borrower (1) obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and (2) signs a statement acknowledging that any new loan the borrower receives cannot be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates. This information is included in the notice that is sent to veterans informing them that they qualify for a TPD discharge based on data obtained from VA.

For borrowers who receive discharges based on SSA disability determinations, §§ 674.61(b)(3)(iv), 682.402(c)(3)(iv), and 685.213(b)(4)(iii) provide that the notification the borrower receives after the discharge has been granted explain the terms and conditions of the post-discharge monitoring period. The notice also includes the requirements for obtaining a new loan discussed above.

*Changes:* None.

*Defaulted Borrowers*

*Comments:* Commenters noted that the loans of many veterans who qualify for a TPD discharge are in default. The commenters asserted that in some cases the loans were wrongly placed in default, because the borrower met the eligibility criteria for a TPD discharge at the time the loan was placed in default.

*Discussion:* It is possible that some veterans who defaulted on their loans may have qualified for TPD discharge if they had submitted a discharge application. However, the Department would not have known at the time the loans defaulted that the veterans with loans described in this example were eligible for a TPD discharge. Prior to the implementation of the process that enables the Department to identify borrowers who are determined to be eligible for TPD discharge based on data obtained from VA, the Department and loan servicers had no means of knowing that a disabled veteran qualified for discharge unless the borrower submitted a TPD discharge application. If such a borrower became delinquent in making payments on a loan, and did not apply for forbearance, deferment, or discharge, or take other actions to resolve the delinquency, the loan would eventually be placed in default, in accordance with the terms and conditions of the promissory note that the borrower signed. Preventing this situation is a major reason the Department automated the process of discharges without the need for an application. The automated process will seek to avoid such an outcome for a borrower who is eligible for a TPD discharge.

*Changes:* None.

*Return of Offset or Garnished Funds*

*Comments:* Commenters asked that any offsets from a defaulted borrower's benefits that were taken to pay on their defaulted loans be returned to them, and their credit reports updated, if the borrower receives an automatic TPD discharge.

*Discussion:* Any payments received on or after the effective date of VA's disability determination or the date the Secretary received disability data from the SSA are returned to the person who made the payments. This includes any payments that were obtained through offsets.

Section 674.61(c)(4)(ii) requires a school that holds a Perkins Loan to return the payments. Section

682.402(c)(10)(vii) requires a FFEL lender to return payments after the guaranty agency has paid a disability claim. Section 685.213(b)(4)(ii) and (c)(2)(i) provides for the return of payments for Direct Loans.

The discharge of a loan is also reported to nationwide consumer reporting agencies.

*Changes:* None.

*Tax Implications*

*Comments:* One commenter asked that the Department take additional action to ensure that veterans are counseled regarding which States treat loan amounts discharged due to TPD as taxable income.

*Discussion:* The letter informing borrowers that they are eligible for discharge explains that, although loan amounts discharged due to TPD are no longer considered taxable income for Federal tax purposes, some States still consider discharged loan amounts as income. The letter recommends that borrowers scheduled to receive a TPD discharge contact their State revenue office or a tax professional before deciding to accept or opt out of the TPD discharge.

*Changes:* None.

*Deregulatory Action*

*Comment:* One commenter asked why the IFR was not treated as a significant regulatory action under Executive Order (E.O.) 13771, which requires that for every significant regulatory action proposed by an agency for notice and comment or otherwise promulgated that imposes a cost greater than zero, the agency must repeal two regulatory actions.

*Discussion:* On January 20, 2021, President Joseph Biden issued E.O. 13992, which revoked E.O. 13771, so the terms of E.O. 13771 no longer apply. Regardless, the Department identified the IFR as a deregulatory action because it eliminates a regulatory requirement: In this case, the requirement that a disabled veteran submit an application for a TPD discharge.

*Changes:* None.

*Automatic Discharges for Borrowers With SSA Disability Designations*

*Comments:* Several commenters supported the Department's implementation of automatic TPD discharges for disabled veterans and asked that the Department also allow for automatic TPD discharges for borrowers who are identified as eligible for a TPD discharge through the existing data match with SSA.

*Discussion:* We agree. Under §§ 674.61(b)(2)(iv), 682.402(c)(2)(iv), and 685.213(b)(1), these borrowers are eligible to receive a loan discharge but are currently required to submit an application before they may receive the discharge. Eliminating the application requirement for borrowers who are identified as eligible for a TPD discharge through the data match with SSA, so they can receive an automatic discharge, is a logical extension of the IFR. The rationale for providing borrowers with a TPD discharge based on a disability determination by VA obtained through a data match, thereby eliminating unnecessary documentation burdens on individuals determined by a government agency to qualify for a TPD discharge, applies equally to individuals who qualify for TPD discharge based on a disability determination by the SSA as obtained through a data match.

The object of the logical outgrowth standard ''is one of fair notice.'' *Long Island Care at Home, Ltd.* v. *Coke,* 551 U.S. 158, 174 (2007). The standard is well described in *Mid Continent Nail Corp.* v. *United States,* 846 F.3d 1364, 1373–76 (Fed. Cir. 2017), which states that ''a final rule is a logical outgrowth of a proposed rule only if interested parties should have anticipated that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period.'' *Id.* at 1373 (quoting *Veteran's Justice Grp., L.L.C.* v. *Sec'y of Veterans Affairs,* 818 F.3d 1336, 1344 (Fed. Cir. 2016)). The Federal Circuit indicated that the logical outgrowth standard is very broad, implying that it would even allow the removal of ''critical elements'' of rules so long as the NPRM contains ''the merest hint'' of the agency's actions in the final rule. *See id.* at 1374, 1376.

As supported by public comment on the IFR requesting this expansion of the automatic TPD discharge, the public could reasonably have anticipated that the final rule would apply to borrowers who are identified as eligible for a TPD discharge through the data match with SSA. The position taken in this final rule—expanding the automatic TPD discharge to apply to these borrowers—is consistent with and responsive to public comment, including comments from several U.S. Senators, a State Attorney General, legal aid societies, and other non-governmental organizations. The number of comments, the diversity of the commenters, and the universal support for this expansion all demonstrate that this rule is a logical outgrowth of the IFR.

*Changes:* In §§ 674.61(d)(1)(ii), 682.402(c)(10)(i)(B), and 685.213(d)(1)(ii), we have provided that a borrower who is identified as eligible for TPD discharge through the data match with SSA does not need to submit a TPD application as a condition of receiving a loan discharge.

*Additional Proposals*

*Comments:* Some commenters suggested that all veterans with a service-related disability should have their loans discharged. One commenter recommended that student loans for all veterans be paid or forgiven, not just veterans who are totally and permanently disabled. Another commenter recommended that all veterans with a disability should qualify for a TPD discharge, regardless of whether their disability is service-connected.

Two commenters stated that veterans who have never been deployed can receive a 100 percent disability rating from VA. These veterans would qualify for TPD, while veterans who were deployed, but who are less than 100 percent disabled, would not qualify. This commenter believed that veterans who have not been deployed should not have priority over veterans who were deployed.

One commenter recommended eliminating the post-discharge monitoring period for all TPD discharge borrowers.

*Discussion:* The statutory section authorizing a TPD discharge for veterans does not take a veteran's deployment status into account and, therefore, deployment status has no bearing on whether a student loan is discharged. In addition, the Department does not have the statutory authority to grant a TPD discharge to a veteran who is not totally and permanently disabled. A veteran who is totally and permanently disabled, but whose disability is not service connected, may receive a TPD discharge under the other TPD discharge processes, which require either an SSA disability determination or a physician's certification.

There is no post-discharge monitoring period for borrowers who received TPD discharges based on VA disability determinations. Because the IFR only addressed automatic TPD discharges for veterans for whom there are no post-discharge monitoring periods, any changes to the post-discharge monitoring periods for other recipients of TPD discharges are outside the scope of this final rule. However, the Department has heard from the public on ways to improve the rules governing total and permanent disability discharge and may consider these policies through upcoming negotiated rulemaking. See 86 FR 28299 (May 26, 2021).

*Changes:* None.

**Executive Orders 12866 and 13563**

*Regulatory Impact Analysis*

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

These final regulations, taken together with the IFR, are an economically significant action and will have an annual effect on the economy of more than $100 million because the changes to an opt-out process for borrowers identified as TPD eligible through the data matches with VA and SSA are expected to increase transfers from the Federal Government as more loans are discharged by $1,685.8 million when annualized at a seven percent discount rate. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a ''major rule,'' as defined by 5 U.S.C. 804(2).

We have also reviewed these final regulations and the IFR under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

The Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and we issued the IFR, and are issuing these final regulations, in response to the pressing need for, and manifest public interest in, deregulatory relief from bureaucratic burdens that have denied tens of thousands of veterans who are totally and permanently disabled, due to service-related injuries, student loan discharges for which they are eligible. Individuals who SSA has determined to be disabled have faced similar burdens and hurdles. The harm caused to our veterans, other disabled individuals, and to the public interest by the application process is significant and widely recognized. See Presidential Memorandum at 44677; S. Rep. No. 115–150, at 182. Based on this analysis and the reasons stated in the preamble, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, or Tribal governments in the exercise of their governmental functions.

**Need for Regulatory Action**

The HEA provides that veterans who are totally and permanently disabled are eligible to have their Federal student loans discharged. Prior to the IFR, once determined by the Secretary of Veterans Affairs to be totally and permanently disabled due to a service-connected condition, the veteran was required to obtain documentation of that status from VA and provide it to the Secretary of Education, along with an application for total and permanent disability discharge, in order to receive the discharge of their student loans. Similarly, borrowers who are identified as eligible for a TPD discharge through the data match with SSA had to submit an application to the Department in order to receive the discharge.

However, now that the Department has data sharing agreements with VA and SSA in place, the Department obtains all of the information it needs directly from those two agencies to discharge loans. This makes the submission of the TPD application to the Department an unnecessary and burdensome step for both groups of borrowers. Consequently, the President and Congress have asked the Department to ensure that individuals who have received a qualifying disability determination from SSA or VA receive all benefits the law allows with as little burden on the borrower as possible. Under the IFR and this final rule, individuals who have received a qualifying disability determination from SSA or VA only need to contact the Department if they choose to opt out of the TPD discharge, in which case they would be responsible for full payment on the loan.

In terms of the potential impact on borrowers, the most significant change from the IFR is the extension of the automatic TPD discharge process to borrowers who are identified as eligible for a TPD discharge through the data match with SSA. Expanding TPD discharges without an application to individuals identified as TPD by SSA is a logical extension of the IFR. The rationale for providing an automatic discharge to veterans based on a disability determination by VA eliminating unnecessary documentation burdens on individuals determined by a government agency to have total and permanent disabilities that qualify them under statute to a discharge of their loans, particularly when those total and permanent disabilities may pose challenges to providing additional documentation—applies equally to individuals whose TPD has been identified by the SSA.

The Department has been working with VA since 2018 to facilitate a more expedited TPD discharge process and about 22,000 veterans have received

approximately $650 million in discharges under the opt-in process in effect prior to the IFR. However, thousands more have not applied for the discharge for which they were eligible. A similar match has been in place with the Social Security Administration since 2016 and approximately 141,000 borrowers have received $8.2 billion in discharges under the opt-in process for the period 2016–2021. While veterans do not have to complete a post-discharge monitoring period, other borrowers who receive a TPD discharge are subject to a three-year post-discharge monitoring period during which a loan discharge could be reversed, so the final number of discharges associated with SSA matches from 2016–2021 may shift somewhat.

The amendments in the IFR and these final regulations provide a quicker, more efficient process and will likely result in many more qualified veterans and individuals SSA determined to have a qualifying disability status receiving the discharge for which they are eligible.

In the past, loan discharge amounts were subject to Federal and, in some States, State tax, which may have dissuaded some veterans or other borrowers who could otherwise navigate the TPD application process from seeking a discharge. However, under the Tax Cuts and Jobs Act of 2017 (Pub. L. 115–97), all Federal tax was eliminated on loan discharges of borrowers based on death or total and permanent disability through 2025. Some small percentage of these eligible veterans or other borrowers may opt out due to concerns over State tax treatment that was not affected by the 2017 Federal law.

In addition, borrowers who are enrolled in a postsecondary institution at the time of the disability determination, or who plan to enroll in the future, may opt to forego loan forgiveness through TPD discharge so that they can continue to receive new Federal student loans for such enrollments. Although a borrower who accepts loan forgiveness through TPD discharge may still be able to borrow in the future, the Department requires such a borrower to obtain a certification from a physician that the borrower is able to engage in substantial gainful employment and to sign a statement acknowledging that the new Direct Loan the borrower receives cannot be discharged in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates. In addition, borrowers who want to receive new loans after receiving a TPD discharge based on SSA documentation (or based on a physician's certification) are also required under §§ 674.61(b)(6), 682.402(c)(4) and (5), and 685.213(b)(6) and (7) to resume payment on the discharged loans if they receive a new loan during the three-year post-discharge monitoring period.

Some borrowers may elect to simply forego loan forgiveness to preserve future borrowing opportunities and avoid the need to obtain medical certification regarding their ability to engage in substantial gainful employment. Although borrowers could opt out of an automatic discharge before we issued the IFR, that option was not specified in the regulations. Currently, the opt-out rate for veterans is low, at four percent (approximately 2,100 borrowers of nearly 48,000 opted out from the two rounds of discharges processed since September 2019). Accordingly, the Department expects a small percentage of borrowers who qualify for an automatic discharge based on SSA data to choose to opt out of the discharge.

Nevertheless, this final rule removes barriers and allows many more qualified veterans and other borrowers to receive the TPD discharge to which they are entitled.

**Costs, Benefits, and Transfers**

The primary parties affected by the IFR and these final regulations will be the veterans and recipients of Social Security benefits who qualify for the discharge; and the taxpayers, through the transfers from the Federal government. Qualifying borrowers will be relieved of a financial burden related to Federal student loans, including the stress associated with repayment or potential defaults and collections.

VA estimates that approximately 150,000 veterans a year will reach a qualifying disability rating over the next 10 years, of which approximately 18 percent will be 50 years old or under and approximately 20 percent will have at least some postsecondary education at the time of their separation from the armed services. Many more will likely use education benefits and loans to pursue postsecondary credentials after separation. Therefore, we expect that thousands of current and future veterans will be affected by these final regulations.

The match with the Social Security Administration is for individuals with Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits indicating that the borrower's next scheduled disability review will occur in no less than five and no more than seven years. The number of borrowers eligible for a discharge depends on the age profile, student loan borrowing history, and repayment history of those with a qualifying disability status. The Department estimates that approximately 21,000 borrowers are newly identified through the SSA match on a quarterly basis, and the quarterly average of borrowers who apply for a discharge and successfully complete the monitoring period is just over 10,000. This is based on borrowers from existing loan cohorts who have already received a qualifying disability status. More borrowers from past loan cohorts could qualify for a disability status in future years, and future cohorts of borrowers will also be affected by these final regulations, so many thousands of borrowers from existing loan cohorts and those in the 10-year budget window will benefit from the opt-out process.

As described in the Paperwork Reduction Act section of this preamble, the elimination of the application will reduce the burden on borrowers who qualify for the automatic TPD discharge. The elimination of the application is a reduction in burden of 5,000 hours and $140,900 for veterans and 11,586 hours and $326,493 for other borrowers, calculated at a wage rate of $28.18.[1]

The increase in transfers for discharges will affect taxpayers, through the Federal government, as more borrowers receive the loan discharge for which they qualify. This effect is described in the Net Budget Impacts section of this Regulatory Impact Analysis. Estimated annualized transfers are $1,685.8 million at a 7 percent discount rate. The servicing contractor that processes disability discharges for the Department could see an increase in the number of discharges to process, which could require system upgrades or other resources. However, they have already adjusted to an opt-out process for veterans and manage the notifications for eligible borrowers identified through the match with the SSA, so we do not expect significant changes would be required. Additionally, the Department is required to pay the cost of SSA providing Medical Improvement Not Expected status as part of the match agreement. This is estimated to cost approximately $8,000 annually, but this cost would be incurred whether or not the results of the match were used for

[1] Bureau of Labor Statistics, Economic News Release Table B–3. Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally adjusted. Applying average hourly wage rate for October 2019 for total private industry. Available at *www.bls.gov/news.release/empsit.t19.htm*.

the existing opt-in process or the opt-out process established by these final regulations.

**Net Budget Impacts**

We estimate that the IFR and these final regulations will have a net Federal budget impact over the 2022–2031 loan cohorts of $13.3 billion in outlays and a modification to past cohorts of $20.9 billion, for a total net impact of $34.1 billion. A cohort reflects all loans originated in a given fiscal year. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. The Net Budget Impact is compared to the 2022 President's Budget baseline (PB2022) that includes the estimated effects of the student loan related provisions in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and subsequent extensions.

As discussed throughout this preamble, the IFR and these final regulations changed the discharge process of loans for veterans with a service-related disability to an opt-out process instead of the opt-in process associated with the match between the Department and VA prior to the IFR. While the match has been processed since 2018 and the Department has accepted VA determinations of disability status without additional medical information since 2013, a significant percentage of veterans who would qualify for the discharge did not submit applications. Of approximately 58,000 qualifying veterans identified in the match process since 2018, only about 22,000 veterans have received discharges, totaling approximately $650 million. According to Federal Student Aid, approximately 4,000 additional veterans are identified in each quarterly match. For the SSA match, approximately 21,000 additional borrowers are identified in each quarterly match. Since the start of the SSA match with the opt-in process in 2016, approximately $8.2 billion in TPD discharges have been processed.

To estimate the effect of the opt-out procedure, the Department adjusted the disability component of its Death, Disability, and Bankruptcy assumption (DDB), which also includes closed school and borrower defense discharges that have been the subject of recent regulations. To calculate the effect on past cohorts from borrowers currently eligible for the discharge, the Department summarized the balances, collections, and payments associated with veterans identified in the August 2018 match who had not received a disability or death discharge by the end of FY 2019. These potential claims were grouped by population identification (non-consolidated, consolidated not-from-default, and consolidated from default), and offset between the fiscal year of loan origination and fiscal year of disability. Baseline disability claims were also summarized by these factors and an adjustment factor for the increase represented by the potential claims was calculated.

The change to the opt-out approach will increase the level of disability discharges going forward, but not to the same degree as the significant adjustment in FY2020 that captures the build-up of years from those who did not submit applications. To estimate the adjustment for future claims, the Department focused on those newly identified as disabled in 2018 and calculated an adjustment factor based on those who received a discharge versus those borrowers with potential discharges who were in the match but did not submit applications. This adjustment was applied to future cohorts and future disability determinations for borrowers in past cohorts.

A separate adjustment was added to the disability rate to capture the effect of the SSA match switching to opt-out. A review of existing borrowers identified in the SSA match file prior to September 30, 2020, indicates that there are approximately $11.5 billion in outstanding balances of borrowers who would be eligible for a TPD discharge. This confirms that the potential increase in claims from existing and future cohorts is significant. The disability component of the DDB rate was almost doubled to estimate the effect of the SSA match opt-out process, resulting in the increase to $34.1 compared to the $1.96 billion estimated for only VA match in the IFR.

A number of factors may affect the estimated cost of these final regulations. The estimate does not include any reduction in defaults associated with the borrowers' loans, but borrowers' repayment profile will affect the cost of this discharge. For borrowers in the SSA match prior to September 30, 2020, approximately 62 percent of loan disbursements across all loan cohorts have been in default at some point. While the estimate for these final regulations is conservative and does not include any reduction in defaults, we know from prior analysis that a change such as this can have an impact on defaults going forward. As an example, a sensitivity analysis was done for the FY 2020 financial statements that showed that a 5 percent reduction in defaults for the last 5 originated cohorts saves $849 million. The Department will monitor the effect of these final regulations on defaults as the opt-out process is implemented and reflect it in future student loan program costs. Some borrowers may have lacked awareness of the potential discharge or found the application process difficult. To the extent borrowers previously chose to not apply for Federal tax reasons, the tax provision granting that relief is currently scheduled to expire on December 31, 2025. While that tax provision may be renewed, the opt-out rate for future discharges occurring in 2026 and later could increase if it is not. In estimating the net budget impact of these final regulations, the Department reduced the adjustment factor for 2027 and later by 15 percent to account for this. If that provision is extended, or if more of the unfiled applications were for process reasons and did not reflect deliberate tax planning, the opt-out rate may decrease and the costs could go up.

We also assumed that the non-applicants and future qualifying veterans and other borrowers will have a similar profile to applicants in terms of the amount of loans, repayment profiles, and the timing of their qualifying disability. It is possible that those who applied for a discharge as the result of the match had higher balances and thus more incentive to file, especially once the Federal tax consequences were removed. Applicants and non-applicants could vary by debt level, educational attainment, nature of their disability, availability of support, or other factors that could result in the discharges granted through the opt-out process having a different average amount or subsidy cost for the Department.

Another challenge is predicting the effect on future loan cohorts. We assume the level and timing of service-related and other disabilities will remain similar to that for existing borrowers. Clearly, geopolitical and global health factors that the Department cannot predict could affect the number of veterans and other borrowers who qualify for the discharge. Additionally, student loan borrowing among those who may serve in the military and eventually qualify for a discharge could increase depending upon recruitment patterns and further education pursued by those serving in the military. However, it is possible that the relatively generous provisions of the Post 9/11 GI bill will reduce borrowing by more recent and future cohorts of veterans relative to past cohorts. An

analysis conducted by Veterans Education Success of National Postsecondary Student Aid Survey (NPSAS) data for the most recent three survey cycles (NPSAS:08, NPSAS:12 and NPSAS:16) concluded that the percentage of veterans borrowing at proprietary schools decreased from 78 percent in NPSAS:08, which surveyed students prior to passage of the Post-9/11 GI Bill, to 42 percent in NPSAS:16, which surveyed students after, and the average annual amount borrowed decreased slightly from $8,680 to $8,630 in 2015 dollars.[2] The percent of veterans borrowing declined slightly in other sectors (38 percent to 32 percent for public 4-year institutions) and the average annual amounts borrowed also declined ($10,410 for 4-year private non-profit in NPSAS:08 to $8,980 in NPSAS:16).[3]

Medical or technical advances that affect the classification of disability could potentially be a factor reducing the estimated costs associated with future loan cohorts. In its report, Trends in Social Security Disability,[4] published in August 2019, SSA indicated a decline in disability incidence since 2010 after an increase between 2007–2010. While SSA identifies economic conditions as a contributing factor to disability incidence, the report indicates that the decline is more significant than would be expected by economic conditions alone. Other factors identified that could affect disability rates in the future include availability of health insurance, a change in the mix of jobs to ones with less physically demanding labor, and policy and administrative procedural changes. For estimation purposes, we assume future cohorts will look like existing cohorts but acknowledge that a number of factors could shift the estimated costs in either direction.

**Accounting Statement**

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these final regulations. This table provides our best estimate of the changes in annual monetized transfers as a result of these final regulations. Expenditures are classified as transfers from the Federal government to veterans or borrowers eligible for SSDI and/or SSI benefits who qualify for a total and permanent disability discharge.

TABLE 1—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

| Category | Benefits | |
|---|---|---|
| Increased share of qualifying veterans or borrowers eligible for SSDI and/or SSI benefits who receive a total and permanent disability discharge | Not Quantified | |
| Reduced paperwork burden on veterans or borrowers eligible for SSDI and/or SSI benefits whose next disability review is no earlier than five and no later than seven years who qualify for a TPD discharge | 7%<br>$[.34] | 3%<br>$[.35] |
| **Category** | **Transfers** | |
| Increased loan discharges for veterans or borrowers eligible for SSDI and/or SSI benefits with a qualifying total and permanent disability status | 7%<br>$[1,685.8] | 3%<br>$[1,138.6] |

**Paperwork Reduction Act of 1995 (PRA)**

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions, respondents provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Sections 674.61, 682.402, and 685.213 of these final regulations contain information collection requirements. Under the PRA, the Department has submitted a copy of these sections and an Information Collections Request to OMB for its review. These final regulations do not impose any new information collection burden. OMB previously approved the information collection requirements under OMB control number 1845–0065. The forms that are part of this information collection do not change as a result of these final regulations.

**Sections 674.61(c), 682.402(c)(9), and 685.213(c)**

*Discussion:* Prior to the IFR, a veteran was required to submit an application with documentation from VA to receive a TPD discharge of a loan under the Federal Perkins Loan Program, Federal Family Education Loan Program, or Federal Direct Loan Program. This information has been collected under OMB approved form control number 1845–0065. The IFR and these final regulations eliminate the application requirement.

*Requirements:* These changes allow the Secretary to offer a Federal student loan borrower who is identified through a data match with VA as being totally and permanently disabled a discharge of his or her loans without requiring the borrower to submit a separate TPD application. The veteran may elect to opt out of the TPD discharge and will continue to be responsible for repaying the loans.

*Burden Calculation:* These changes eliminate burden on the veteran. The currently approved form, 1845–0065, estimates 30 minutes (.50 hours) to read, gather documentation, and complete the discharge application. We estimate that

[2] Walter Ochinko and Kathy Payea, Veterans Education Success, *Veteran Student Loan Debt: Data from NPSAS: 08,12,16,* January 2019, Figure 1, p.4. Available at *https://vetsedsuccess.org/veteran-student-loan-debt-7-years-after-implementation-of-the-post-9-11-gi-bill/./*

[3] *Id.*

[4] Social Security Administration, Office of Retirement and Disability Policy, Trends in Social Security Disability, August 2019. Available at *https://www.ssa.gov/policy/docs/briefing-papers/bp2019-01.html.*

annually approximately 10,000 veterans have submitted the application for discharge due to total permanent disability. This regulatory change reduces the burden assessed on the approved form by 5,000 hours (10,000 applicants × .50 hours = 5,000 hours). This will be a one-time reduction in burden. We are not changing the TPD Discharge Application to remove the section applicable to a veteran's request for such a discharge.

1845–0065 DISCHARGE APPLICATION—TOTAL AND PERMANENT DISABILITY

| Affected entity | Number of respondents | Number of responses | Hours per response | Total burden | Estimate costs individual $28.18 |
|---|---|---|---|---|---|
| Individual Veteran | −10,000 | −10,000 | .50 | −5,000 | −$140,000 |
| Total | −10,000 | −10,000 | | −5,000 | −140,000 |

*Discussion:* The TPD discharge regulations currently require a borrower who qualifies for discharge of a Federal Perkins Loan Program, Federal Family Education Loan Program, or Federal Direct Loan Program loan based on total and permanent disability certified by the SSA to submit an application in order to receive a TPD discharge. This information was collected under OMB control number 1845–0065. Under these final regulations, a borrower who qualifies for a TPD discharge based on total and permanent disability as identified by the SSA will no longer be required to submit a TPD application in order to receive a TPD discharge.

*Requirements:* These changes allow the Secretary to offer a Federal student loan borrower who is identified through SSA data as being totally and permanently disabled a discharge of his or her loans without requiring the borrower to submit a separate TPD application. The borrower may elect to opt out of the TPD discharge and will continue to be responsible for repaying the loans.

*Burden Calculation:* These changes eliminate burden on the borrower. The currently approved form, 1845–0065, estimates 30 minutes (.50 hours) to read, gather documentation, and complete the discharge application. In 2020 the Department received 23,171 applications from borrowers who were required to submit the application for discharge based on a total permanent disability determination from SSA. This regulatory change reduces the burden assessed on the approved form by 11,586 hours (23,171 applicants × .50 hours = 11,586 hours). This will be a one-time reduction in burden. We are not changing the TPD Discharge Application to remove the section applicable to a borrower's request for a discharge based on SSA documentation.

1845–0065 DISCHARGE APPLICATION—TOTAL AND PERMANENT DISABILITY

| Affected entity | Number of respondents | Number of responses | Hours per response | Total burden | Estimated costs individual $28.18 |
|---|---|---|---|---|---|
| Individual SSA Disability | −23,171 | −23,171 | .50 | −11,586 | −$326,493 |
| Total | −23,171 | −23,171 | | −11,586 | −326,493 |

In total, we are revising the total burden assessment for the Information Collection 1845–0065 to be 221,629 respondents, 221,629 responses, and 110,814 hours. There are no changes to any of the forms in this collection.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of the law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define for-profit institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Non-profit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

This regulation would not affect any small entities. Small entities do not qualify as borrowers under these Federal loan programs, nor do small entities provide or fund Federal loans or their discharge.

**Intergovernmental Review**

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

**Assessment of Educational Impact**

In the IFR we requested comments on whether the regulations would require transmission of information that any other agency or authority of the United States gathers or makes available. Based on the response to the IFR and our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at

*www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**List of Subjects**

*34 CFR Part 674*

Loan programs—education, Reporting and recordkeeping, Student aid.

*34 CFR Part 682*

Administrative practice and procedure, Colleges and Universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

*34 CFR Part 685*

Administrative practice and procedure, Colleges and Universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

**Annmarie Weisman,**

*Deputy Assistant Secretary for Policy, Planning, and Innovation, Office of Postsecondary Education.*

Accordingly, the interim rule amending 34 CFR parts 674, 682, and 685, which published on November 26, 2019 (84 FR 65000), is adopted as final with the following changes:

## PART 674—FEDERAL PERKINS LOAN PROGRAM

■ 1. The authority citation for part 674 continues to read as follows:

**Authority:** 20 U.S.C. 1070g, 1087aa–1087hh; Public Law 111–256, 124 Stat. 2643; unless otherwise noted.

■ 2. Section 674.61 is amended by:
■ a. In paragraph (c)(2)(iv), removing ''The veteran'' and adding in its place ''Except as provided in paragraph (d) of this section, the veteran''.
■ b. Removing paragraph (c)(2)(x).
■ c. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g), respectively.
■ d. Adding new paragraphs (d) and (e).
■ e. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

**§ 674.61 Discharge for death or disability.**

* * * * *

(d) *Discharge without an application.* (1) The Secretary may discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary—

(i) Obtains data from the Department of Veterans Affairs (VA) showing that the borrower is unemployable due to a service-connected disability; or

(ii) Obtains data from the Social Security Administration (SSA) showing that the borrower qualifies for SSDI or SSI benefits and that the borrower's next scheduled disability review will be no earlier than five nor later than seven years.

(2) [Reserved]

(e) *Notifications and return of payments.* (1) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (d) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower's title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary's notification, that the borrower does not wish to receive the loan discharge.

(2) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge, the Secretary notifies the borrower's lenders that the borrower has been approved for a disability discharge.

(3) In the case of a discharge based on a disability determination by VA—

(i) The notification—

(A) Provides the effective date of the disability determination by VA; and

(B) Directs each institution holding a Defense, NDSL, or Perkins Loan made to the borrower to discharge the loan; and

(ii) The institution returns to the person who made the payments any payments received on or after the effective date of the determination by VA that the borrower is unemployable due to a service-connected disability.

(4) In the case of a discharge based on a disability determination by the SSA—

(i) The notification—

(A) Provides the date the Secretary received the SSA notice of award for SSDI or SSI benefits; and

(B) Directs each institution holding a Defense, NDSL, or Perkins Loan made to the borrower to assign the loan to the Secretary within 45 days of the notice described in paragraph (e)(2) of this section; and

(ii) After the loan is assigned, the Secretary discharges the loan in accordance with paragraph (b)(3)(v) of this section.

(5) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower's loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

* * * * *

## PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 3. The authority citation for part 682 continues to read as follows:

**Authority:** 20 U.S.C. 1071–1087–4, unless otherwise noted.

■ 4. Section 682.402 is amended by:
■ a. In paragraph (c)(9)(iv), removing ''The veteran'' and adding in its place ''Except as provided in paragraph (c)(10) of this section, the veteran''.
■ b. Removing paragraph (c)(9)(xiii).
■ c. Adding paragraphs (c)(10) and (11).
■ d. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

**§ 682.402 Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.**

* * * * *

(c) * * *

(10) *Discharge without an application.* (i) The Secretary may discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary—

(A) Obtains data from the Department of Veterans Affairs (VA) showing that the borrower is unemployable due to a service-connected disability; or

(B) Obtains data from the Social Security Administration (SSA) showing that the borrower qualifies for SSDI or SSI benefits and that the borrower's next scheduled disability review will be no earlier than five nor later than seven years.

(ii) [Reserved]

(11) *Notifications and return of payments.* (i) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (c)(10) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower's title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary's notification, that the borrower does not wish to receive the loan discharge.

(ii) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge, the Secretary notifies the borrower's loan holders that the borrower has been approved for a disability discharge. With this notification the Secretary

provides the effective date of the determination by VA or the date the Secretary received the SSA notice of award for SSDI or SSI benefits, and directs the holder of each FFELP loan made to the borrower to submit a disability claim to the guaranty agency in accordance with paragraph (g)(1) of this section.

(iii) If the claim meets the requirements of paragraph (g)(1) of this section and § 682.406, the guaranty agency pays the claim and must—

(A) Discharge the loan, in the case of a discharge based on data from VA; or

(B) Assign the loan to the Secretary, in the case of a discharge based on data from the SSA.

(iv) The Secretary reimburses the guaranty agency for a disability claim after the agency pays the claim to the lender.

(v) Upon receipt of the claim payment from the guaranty agency, the loan holder returns to the person who made the payments any payments received on or after—

(A) The effective date of the determination by VA that the borrower is unemployable due to a service-connected disability; or

(B) The date the Secretary received the SSA notice of award for SSDI or SSI benefits.

(vi) For a loan that is assigned to the Secretary for discharge based on data from the SSA, the Secretary discharges the loan in accordance with paragraph (c)(3)(iv) of this section.

(vii) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower's loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

* * * * *

## PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 5. The authority citation for part 685 continues to read in part as follows:

**Authority:** 20 U.S.C. 1070g, 1087a, *et seq.,* unless otherwise noted.

* * * * *

■ 6. Section 685.213 is amended by:

■ a. In paragraph (b)(1) introductory text, removing the words ''To qualify'' and adding, in their place, ''Except as provided in paragraph (d)(2) of this section, to qualify''.

■ b. In paragraph (c)(1) introductory text, removing ''To qualify'' and adding in their place ''Except as provided in paragraph (d)(1) of this section, to qualify''.

■ c. Removing paragraph (c)(1)(v).

■ d. Adding paragraphs (d) and (e).

■ e. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

**§ 685.213 Total and permanent disability discharge.**

* * * * *

(d) *Discharge without an application.* (1) The Secretary may discharge a loan under this section without an application or any additional documentation from the borrower if the Secretary—

(i) Obtains data from the Department of Veterans Affairs showing that the borrower is unemployable due to a service-connected disability; or

(ii) Obtains data from the Social Security Administration (SSA) showing that the borrower qualifies for SSDI or SSI benefits and that the borrower's next scheduled disability review will be no earlier than five nor later than seven years.

(2) [Reserved]

(e) *Notification to the borrower.* (1) After determining that a borrower qualifies for a total and permanent disability discharge under paragraph (d) of this section, the Secretary sends a notification to the borrower informing the borrower that the Secretary will discharge the borrower's title IV loans unless the borrower notifies the Secretary, by a date specified in the Secretary's notification, that the borrower does not wish to receive the loan discharge.

(2) Unless the borrower notifies the Secretary that the borrower does not wish to receive the discharge the Secretary discharges the loan—

(i) In accordance with paragraph (b)(4)(iii) of this section for a discharge based on data from the SSA; or

(ii) In accordance with paragraph (c)(2)(i) of this section for a discharge based on data from VA.

(3) If the borrower notifies the Secretary that they do not wish to receive the discharge, the borrower will remain responsible for repayment of the borrower's loans in accordance with the terms and conditions of the promissory notes that the borrower signed.

* * * * *

[FR Doc. 2021–18081 Filed 8–20–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 9

**RIN 2900–AR24**

## Extension of Veterans' Group Life Insurance (VGLI) Application Periods in Response to the COVID–19 Public Health Emergency

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, without change, an interim final rule amending the Department of Veterans Affairs (VA) regulation regarding Veterans' Group Life Insurance (VGLI). The amendment was necessary in order to extend the deadline for former members to apply for VGLI coverage following separation from service to address the inability of former members directly or indirectly affected by the 2019 Novel Coronavirus (COVID–19) public health emergency to purchase VGLI.

**DATES:** *Effective* September 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Paul Weaver, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4263. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** An interim final rule amending VA's regulation regarding the deadline for former members to apply for VGLI coverage following separation from service was published in the **Federal Register** on June 9, 2021 (86 FR 30541).

VA provided a 30-day comment period that ended on July 9, 2021. No comments were received. Based on the rationale set forth in the interim final rule, we now adopt the interim final rule as a final rule without change.

### Administrative Procedure Act

In the June 9, 2021, **Federal Register** notice, VA determined that there was a basis under the Administrative Procedure Act for issuing the interim final rule with immediate effect. We invited and did not receive public comment on the interim final rule. This document adopts the interim final rule as a final rule without change.

### Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and

benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

**Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The provisions contained in this final rulemaking are applicable to individual Veterans, and applications for VGLI, as submitted by such individuals, and are specifically managed and processed within VA and through Prudential Insurance Company of America, which is not considered to be a small entity. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by the State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any given year. This final rule will have no such effect on State, local, and tribal governments or on the private sector.

**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 rule as not a major rule, as defined by 5 U.S.C. 804(2).

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance Program number and title for this rule is 64.103, Life Insurance for Veterans.

**List of Subjects in 38 CFR Part 9**

Life insurance, Military personnel, Veterans.

**Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved this document on August 16, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Jeffrey M. Martin,**

*Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

## PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

Accordingly, the Department of Veterans Affairs is adopting the interim rule amending 38 CFR part 9 that was published at 85 FR 35562 on June 9, 2021, as final without change.

[FR Doc. 2021–18089 Filed 8–20–21; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

**RIN 2900–AR05**

## Loan Guaranty: COVID–19 Veterans Assistance Partial Claim Payment Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Technical amendments.

**SUMMARY:** The Department of Veterans Affairs (VA) is making technical amendments to the final rule published on Friday, May 28, 2021. The final rule establishes the COVID–19 Veterans Assistance Partial Claim Payment program (COVID–VAPCP), a temporary program to help Veterans return to making normal loan payments on a VA-guaranteed loan after exiting a forbearance for financial hardship due, directly or indirectly, to the COVID–19 national emergency.

**DATES:** These technical amendments are effective August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Andrew Trevayne, Assistant Director, Loan Property and Management, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8862. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** VA is amending its final rule, ''RIN 2900–AR05; Loan Guaranty: COVID–VAPCP'', that was published on May 28, 2021, in the **Federal Register** at 86 FR 28692. In the Paperwork Reduction Act section of the final rule, VA noted it had submitted to the Office of Management and Budget (OMB) for approval new information collections under 38 CFR 36.4803 and 36.4805 through 36.4807. OMB has approved these collections of information and assigned an OMB control number. Therefore, VA is issuing these technical amendments to add the OMB control number to the published regulation.

**List of Subjects in 38 CFR Part 36**

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

For the reasons set forth in the preamble, the VA amends 38 CFR part 36 to read as follows:

## PART 38—PENSIONS, BONUSES, AND VETERAN'S RELIEF

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and 3720.

■ 2. Amend § 36.4803 by revising the sentence in parenthesis at the end of the section to read as follows:

**§ 36.4803 General requirements of the COVID–19 Veterans Assistance Partial Claim Payment program.**

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0889).

* * * * *

■ 3. Amend § 36.4805 by revising the sentence in parenthesis at the end of the section to read as follows:

**§ 36.4805 Terms of the partial claim payment.**

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0889).

* * * * *

■ 4. Amend § 36.4806 by revising the sentence in parenthesis at the end of the section to read as follows:

**§ 36.4806 Terms of the assistance to the veteran.**

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0889).

* * * * *

■ 5. Amend § 36.4807 by revising the sentence in parenthesis at the end of the section to read as follows:

**§ 36.4807 Application for partial claim payment.**

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 2900–0021 and 2900–0889).

* * * * *

Dated: August 18, 2021.

**Jeffrey M. Martin,**

*Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

[FR Doc. 2021–18001 Filed 8–20–21; 8:45 am]

**BILLING CODE 8320–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2021–0378; FRL–8704–02–R7]**

## Air Plan Approval; Iowa; Infrastructure State Implementation Plan Requirements for the 2015 Ozone National Ambient Air Quality Standard

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve certain elements of a State Implementation Plan (SIP) submission from the State of Iowa addressing the applicable requirements of section 110 of the Clean Air Act (CAA) for the 2015 Ozone ($O_3$) National Ambient Air Quality Standard (NAAQS). Section 110 requires that each state adopt and submit a SIP revision to support the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

**DATES:** This final rule is effective on September 22, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2021–0378. 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, *i.e.,* 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 information.

**FOR FURTHER INFORMATION CONTACT:** Jason Heitman, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7664; email address: *heitman.jason@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA. A technical support document (TSD) is included in the rulemaking docket.

**Table of Contents**



### I. Background

On June 29, 2021, the EPA proposed to approve Iowa's infrastructure SIP submission for the 2015 $O_3$ NAAQS in the **Federal Register** (86 FR 34175). The EPA solicited comments on the proposed approval of the infrastructure SIP submission and received no comments.

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

The EPA is approving the infrastructure SIP submission received from the state on November 30, 2018 in accordance with section 110(a)(1) of the CAA. Specifically, the EPA is approving Iowa's SIP as meeting the following infrastructure elements of section 110(a)(2) of the CAA: (A) through (C), (D)(i)(II)—prevention of significant deterioration of air quality (prong 3) and protection of visibility (prong 4), (D)(ii), (E) through (H), and (J) through (M). Elements of section 110(a)(2)(D)(i)(I)—significant contribution to nonattainment (prong 1) and interfering with maintenance of the NAAQS (prong 2) will be addressed in a separate action.

Section 110(a)(2)(I) was discussed in the submission; however, the EPA does not expect infrastructure SIP submissions to address element (I). Section 110(a)(2)(I) requires states to meet the applicable SIP requirements of part D of the CAA relating to designated nonattainment areas. The specific part D submissions for designated nonattainment areas are subject to different submission schedules than those for section 110 infrastructure elements. The EPA will act on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

A Technical Support Document (TSD) in the docket provides additional details of this action, including an analysis of how the SIP meets the applicable CAA section 110 requirements for infrastructure SIPs.

### III. Have the requirements for approval of a SIP revision been met?

The State met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The EPA determined that the submission satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided a public comment period for this SIP revision from September 18, 2018 to October 19, 2018 and received two comments related to a request for more stringent ozone requirements and an increase in ozone monitors. The state provided an adequate response to these comments. In addition, as explained in more detail in the TSD which is part of this docket, the infrastructure SIP submission meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. The public comment period on the EPA's proposed rule opened June 29, 2021, the date of its publication in the **Federal Register** and closed on July 29, 2021. During this period, the EPA received no comments.

### IV. What action is the EPA taking?

The EPA is approving elements of the November 30, 2018, submission from the State of Iowa addressing the infrastructure elements for the 2015 $O_3$ NAAQS. Specifically, the EPA is approving Iowa's SIP as meeting the following infrastructure elements of section 110(a)(2): (A) through (C), (D)(i)(II) prong 3 and prong 4, (D)(ii), (E) through (H), (J) through (M). The EPA intends to act on the elements of section 110(a)(2)(D)(i)(I)—prong 1 and prong 2 in a subsequent rulemaking. The EPA is not addressing Section 110(a)(2)(I) as it is the EPA's interpretation of the CAA that these elements do not need to be addressed in the context of an infrastructure SIP submission.

Based upon review of the State's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Iowa's SIP, the EPA finds that Iowa's SIP meets all applicable required elements of sections 110(a)(1) and (2) (except as otherwise noted) with respect to the 2015 $O_3$ NAAQS.

## 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 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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 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).

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 October 22, 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, Infrastructure, Intergovernmental relations, Ozone.

Dated: August 12, 2021.

**Edward H. Chu,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

## 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 Q—Iowa

■ 2. In § 52.820, the table in paragraph (e) is amended by adding the entry ''(54)'' in numerical order to read as follows:

**§ 52.820 Identification of plan.**

* * * * *

(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

| Name of nonregulatory SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| (54)Section 110(a)(2) Infrastructure Requirements for the 2015 $O_3$ NAAQS. | Statewide ..... | 11/30/18 | 8/23/21, [Insert **Federal Register** citation]. | [EPA–R07–OAR–2021–0378; FRL–8704–02–Region 7]. This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II)—prongs 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). 110(a)(2)(D)(i)(I)—prongs 1 and 2 will be addressed in a separate action. 110(a)(2)(I) is not applicable. |

[FR Doc. 2021–17712 Filed 8–20–21; 8:45 am]
**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2021–0134; FRL–8760–02–R9]**

## Air Plan Approval; Arizona; Pinal County Air Quality Control District

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Pinal County Air Quality Control District (PCAQCD) portion of the Arizona State Implementation Plan (SIP). These revisions concern the District's negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or ''standards'') in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the PCAQCD and two volatile organic compound (VOC) rules covering gasoline dispensing and surface coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act). This approval stops all sanction and federal implementation plan clocks started by our August 9, 2019 partial and limited disapproval actions.[1]

**DATES:** This rule is effective September 22, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0134. 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 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:** Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4126 or by email at *Law.Nicole@epa.gov.*

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

### Table of Contents



### I. Proposed Action

On March 5, 2021,[2] the EPA proposed to approve negative declarations for the 2008 8-hour ozone NAAQS in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the PCAQCD and the following two PCAQCD rules: Chapter 5, Article 13, Surface Coating Operations, and Chapter 5, Article 20, Storage and Loading of Gasoline at Gasoline Dispensing Facilities. The following table lists the documents that were submitted by the Arizona Department of Environmental Quality (AQED) for incorporation into the Arizona SIP; these documents were the subject of our March 5, 2021 proposed rulemaking action and submitted in response to our August 9, 2019 partial and limited disapproval actions.[3]

| Local agency | Rule title | Amended | Submitted |
|---|---|---|---|
| PCAQCD | Reasonably Available Control Technology (RACT) Analysis, Negative Declaration and Rules Adoption—Appendix B: Additional Negative Declarations. | 8/5/2020 | 8/20/2020 |
| PCAQCD | Chapter 5, Article 13 Surface Coating Operations<br>5–13–100, ''General''.<br>5–13–200, ''Definitions''.<br>5–13–300, ''Standards''.<br>5–13–400, ''Administrative Requirements''.<br>5–13–500, ''Monitoring and Records''. | 8/5/2020 | 8/20/2020 |
| PCAQCD | Chapter 5, Article 20 Storage and Loading of Gasoline at Gasoline Dispensing Facilities<br>5–20–100 ''General''.<br>5–20–200 ''Definitions''.<br>5–20–300 ''Standards''.<br>5–20–400 ''Administrative Requirements''.<br>5–20–500 ''Monitoring and Records''. | 8/5/2020 | 8/20/2020 |

We proposed to approve the negative declarations and two rules because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the negative declarations and rules as well as on our evaluation.

### II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

### III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these negative declarations and rules into the Arizona SIP.

The August 5, 2020 versions of Chapter 5, Article 13 and Chapter 5, Article 20 will replace the previously approved version of these rules in the SIP. This approval stops all sanction and federal implementation plan clocks started by our August 9, 2019 partial and limited disapproval actions on the PCAQCD RACT SIP.[4]

[1] 84 FR 39196 (August 9, 2019).
[2] 86 FR 12889.
[3] 84 FR 39196 (August 9, 2019).
[4] 84 FR 39196 (August 9, 2019).

## 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 PCAQCD 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.[5] The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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).

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 26, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended 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

■ 2. In § 52.120, in paragraph (c), amend Table 9, under ''Chapter 5. Stationary Source Performance Standards'' by revising the entries for ''5–13–100'', ''5–13–200'', ''5–13–300'', ''5–13–400'', ''5–13–500'', ''5–20–100'', ''5–20–200'', ''5–20–300'', ''5–20–400'' and ''5–20–500''.

The revisions read as follows:

### § 52.120 Identification of plan.

* * * * *

(c) * * *

[5] 62 FR 27968 (May 22, 1997).

TABLE 9—EPA-APPROVED PINAL COUNTY AIR POLLUTION CONTROL REGULATIONS

| County citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |
| **Chapter 5. Stationary Source Performance Standards** | | | | |
| 5–13–100 ..... | Surface Coating Operations—General. | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–13–100 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5–13–100, 5–13–200, 5–13–300, 5–13–400, and 5–13–500. |
| 5–13–200 ..... | Definitions ..... | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–13–200 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5–13–100, 5–13–200, 5–13–300, 5–13–400, and 5–13–500. |
| 5–13–300 ..... | Standards ..... | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–13–300 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5–13–100, 5–13–200, 5–13–300, 5–13–400, and 5–13–500. Section 5–13–390 is not part of the SIP. |
| 5–13–400 ..... | Administrative Requirements. | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–13–400 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5–13–100, 5–13–200, 5–13–300, 5–13–400, and 5–13–500. |
| 5–13–500 ..... | Monitoring and Records .. | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–13–500 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5–13–100, 5–13–200, 5–13–300, 5–13–400, and 5–13–500. |
| * | * | * | * | * * * |
| 5–20–100 ..... | Storage and Loading of Gasoline at Gasoline Dispensing Facilities—General. | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–20–100 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5–20–100, 5–20–200, 5–20–300, 5–20–400, and 5–20–500. |
| 5–20–200 ..... | Definitions ..... | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–20–200 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5–20–100, 5–20–200, 5–20–300, 5–20–400, and 5–20–500. |
| 5–20–300 ..... | Standards ..... | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–20–300 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5–20–100, 5–20–200, 5–20–300, 5–20–400, and 5–20–500. |

TABLE 9—EPA-APPROVED PINAL COUNTY AIR POLLUTION CONTROL REGULATIONS—Continued

| County citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 5–20–400 ..... | Administrative Requirements. | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–20–400 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5–20–100, 5–20–200, 5–20–300, 5–20–400, and 5–20–500. |
| 5–20–500 ..... | Monitoring and Records .. | August 5, 2020 | August 23, 2021, [INSERT **Federal Register** CITATION]. | The August 5, 2020 version of section 5–20–500 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5–20–100, 5–20–200, 5–20–300, 5–20–400, and 5–20–500. |
| * | * | * | * | * * * |

* * * * *

■ 3. Section 52.122 is amended by adding paragraph (a)(2)(ii) to read as follows:

**§ 52.122 Negative declarations.**

* * * * *

(a) * * *

(2) * * *

(ii) The following negative declarations for the 2008 ozone NAAQS were adopted on August 5, 2020 and submitted on August 20, 2020.

| EPA document No. | Title |
|---|---|
| EPA–450/2–77–037 ..... | Cutback Asphalt. |
| EPA 453/R–08–003 ..... | Miscellaneous Metal Parts Coatings Tables 3–6 Plastic Parts and Products; Automotive/Transportation and Business Machine Plastic Parts; Pleasure Craft Surface Coatings; Motor Vehicle Materials. |
| EPA 453/B–16–001 ..... | Control Techniques Guidelines for the Oil and Natural Gas Industry. |
| N/A ..... | Major non CTG VOC sources. |
| N/A ..... | Major $NO_X$ sources. |

**§ 52.124 [Amended]**

■ 4. Section 52.124 is amended by removing and reserving paragraph (b).

[FR Doc. 2021–16862 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

**[EPA–R02–OAR–2020–0431, FRL–8851–02–Region 2]**

### Approval and Promulgation of State Plans for Designated Facilities; New York; Revision to Section 111(d) State Plan for MSW Landfills

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to New York's section 111(d) state plan (the ''State Plan'') for Municipal Solid Waste (MSW) landfills, pursuant to the Clean Air Act (''CAA'' or the ''Act''). The State Plan revision consists of amendments to ''Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills,'' as well as attendant revisions to the ''General Provisions.'' New York has implemented this regulation to incorporate by reference the revised Emission Guideline (EG) promulgated by the EPA for existing MSW landfills on August 29, 2016. The purpose of the revised Emission Guideline is to reduce emissions of landfill gas containing Non-methane Organic Compounds (NMOC) and methane by lowering the emission threshold at which an existing MSW landfill must install and operate a Gas Collection and Control System (GCCS). The emissions threshold reduction will address air emissions from all affected MSW landfills, including NMOC and methane. The reduction of emissions will improve air quality and protect the public health from exposure to landfill gas emissions.

**DATES:** This final rule is effective on September 22, 2021. The incorporation by reference of certain material listed in the rule is approved by the Director of the Federal Register September 22, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2020–0431. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information 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 *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional available information.

**FOR FURTHER INFORMATION CONTACT:**

Fausto Taveras, Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007–1866, at (212) 637–3378, or by email at *Taveras.Fausto@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The **SUPPLEMENTARY INFORMATION** section is arranged as follows:



## I. What action is the EPA taking today?

The EPA is approving the State of New York's revised section 111(d) state plan for MSW landfills, for the purpose of incorporating the adoption of Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 208. In a letter dated December 11, 2019, the New York State Department of Environmental Conservation (NYSDEC), on behalf of the State of New York, submitted to the EPA a state plan entitled, ''Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills,'' which contains a New York State-approved regulation for the purpose of lowering the emissions threshold within MSW landfills through the installation of Gas Collection and Control Systems (GCCS). The State Plan incorporates by reference the revised Emission Guidelines (EG) codified at 40 CFR part 60 subpart Cf, which applies to MSW landfills that have accepted waste at any time since November 8, 1987, and commenced construction, reconstruction, or modification on or before July 17, 2014.

In accordance with the CAA, New York previously submitted a state plan on October 8, 1998, which was approved by the EPA on July 19, 1999. *See* 64 FR 38582 (Jul. 19, 1999). New York submitted a revised State Plan dated December 11, 2019 to fulfill the requirements of section 111(d) of the Act. The EPA is approving New York's State Plan revision since it applies to major sources of NMOC and methane emissions. This approval, once finalized and effective, will render New York's revised MSW rule federally enforceable.

## II. What are the details of the EPA's action?

On March 12, 1996, the EPA promulgated federal Emission Guidelines (1996 EG), codified at 40 CFR part 60 subpart Cc, ''Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills.'' *See* 61 FR 9905 (Mar. 12, 1996). Under the 1996 EG, a state plan must include the installation of a gas collection and control system at each MSW landfill that accepted waste after November 8, 1987, has a design capacity greater than or equal to 2.5 million Megagrams (Mg) and 2.5 million cubic meters, and that emits NMOC at a rate of 50 Mg per year or more. *See* 40 CFR 60.33c(b). In accordance with section 111 of the CAA, on September 24, 2001, the NYSDEC promulgated 6 NYCRR Part 208, ''Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills,'' in compliance with the EPA's federal EG for MSW landfills, codified at 40 CFR part 60 subpart Cc.

Due to significant changes within the landfill industry, such as increased scientific understanding of landfill gas emissions, changes in operation practices, and an increase in the average size and age of landfills, the EPA determined that it was appropriate to update the 1996 EG. As a result, on August 29, 2016, the EPA promulgated a revised EG, codified at 40 CFR part 60 subpart Cf, entitled, ''Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.'' *See* 81 FR 59275 (Aug. 29, 2016). The revised EG updated the control requirements, monitoring, reporting, and recordkeeping provisions for existing MSW landfill sources. The revised EG is designed to significantly reduce emissions of landfill gas containing NMOC and methane by further reducing the emissions threshold at which a landfill must install and operate a GCCS. In contrast to the 1996 EG, the revised EG reduces the threshold for installing a GCCS to 34 Mg/year of NMOC for active MSW landfills. Meanwhile, closed MSW landfills will retain the threshold of 50 Mg/year of NMOC for installing a GCCS. In order to continue complying with the Act and the newly adopted EG, on August 5, 2019, New York adopted its revised 6 NYCRR Part 208, ''Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills,'' and amended Part 200, ''General Provisions,'' with an effective date of September 4, 2019. The purpose of the revisions was to incorporate by reference the revised EG for MSW landfills promulgated at 40 CFR part 60 subpart Cf.

In its proposal (*see* 86 FR 11485 (Feb. 25, 2021)), the EPA evaluated New York's State Plan for compliance with regulations at 40 CFR part 60 subpart Ba governing the timing and completeness requirements for the submission of state plans. *See* 40 CFR 60.23a and 60.27a. On August 26, 2019, the EPA finalized a rule (referred to as the ''Ba Rule'') that amended the EG codified at 40 CFR part 60 subpart Cf to incorporate these subpart Ba timing and completeness requirements. *See* 84 FR 44547 (Aug. 26, 2019); 40 CFR 60.30f. However, on January 19, 2021, the D.C. Circuit issued a decision vacating these requirements of subpart Ba, *see Am. Lung Ass'n* v. *EPA,* 985 F.3d 914, 991–95, and the court subsequently also vacated the Ba Rule in an April 5, 2021 order, *see Environmental Defense Fund* v. *EPA,* No. 19–1222, Dkt. 1893133. Accordingly, the review of New York's State Plan is no longer subject to the timing and completeness requirements of the Ba Rule, and the requirements of 40 CFR part 60 subpart B (sections 60.23 and 60.27) now apply instead.

The court's vacatur of the Ba Rule does not affect the approvability of New York's State Plan. First, the completeness requirements of subpart Ba evaluated at proposal no longer apply, and New York's State Plan meets the applicable requirements of 40 CFR 60.23 and 60.27. Further, the vacatur did not affect the substantive requirements of the EG at 40 CFR part 60 subpart Cf.

## III. What comments were received in response to the EPA's proposed action?

The EPA received four comments during the 30-day public comment period in response to its February 25, 2021 proposed approval of New York's State Plan revision. The specific comments may be viewed under Docket ID Number EPA–R02–OAR–2020–0431 on the *http://www.regulations.gov* website. Two public comments, posted on March 2, 2021 and March 26, 2021, support the EPA's proposed rulemaking to approve New York's revised State Plan.

Two public comments, received on March 28, 2021 and March 29, 2021, were submitted by the New York Chapter of the Solid Waste Association of North America (SWANA–NY) and the National Waste & Recycling Association (NWRA). Both comments are substantially similar and acknowledge that New York's State Plan was submitted to the EPA on December 11, 2019. However, on March 26, 2020, the EPA promulgated the National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review (NESHAP MSW RTTR) (85 FR 17244). This final rule revised the most recent MSW Landfill New Source Performance Standards (NSPS) (*see* 40 CFR part 60 subpart XXX) and EG (subpart Cf) in order to allow affected MSW landfills to demonstrate compliance with the ''major compliance provisions'' of the NESHAP (40 CFR part 63 subpart AAAA) in lieu of complying with analogous provisions in the NSPS and EG. This revision permits affected MSW

landfills to follow one set of operational, compliance, monitoring, and reporting provisions for pressure and temperature measurements. The commenters state that since New York's State Plan submittal predates the NESHAP MSW RTTR, it does not incorporate the NESHAP MSW RTTR. Both commenters recommend that the approval of New York's State Plan be contingent on including these changes.

The NESHAP MSW RTTR does not require affected MSW landfills to demonstrate compliance with the ''major compliance provisions'' of the NESHAP AAAA in lieu of complying with the NSPS (subpart XXX) and the EG (subpart Cf). Instead, sources can, depending on the circumstances, demonstrate compliance through either the NESHAP AAAA, the NSPS, or the EG. With respect to the EG, the March 26, 2020 revisions to subpart Cf permitted, but did not require, states to adopt the updates provided in the rule into their section 111(d) state plans. Accordingly, New York's State Plan is approvable as submitted, despite the fact that it predates the promulgation of the NESHAP MSW RTTR, because it meets all of the requirements of 40 CFR part 60 subpart Cf.

This concludes our response to the comments received. No changes have been made to the proposed rule as a result of the comments.

## IV. What is the EPA's conclusion?

The EPA has determined that New York's revised State Plan meets all the applicable approval criteria as discussed above and, therefore, the EPA is approving New York State's CAA section 111(d) revised State Plan for existing municipal solid waste landfills.

## V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the 6 NYCRR Part 208, ''Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills,'' regulation described in the amendments to 40 CFR part 62 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* Docket No. EPA–R02–OAR–2020–0431 and in hard copy at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## VI. Statutory and Executive Order Reviews

Pursuant to EPA regulations, the Administrator may approve a plan or any portion thereof upon a determination that it meets sections 111(d) and 129 of the Act and applicable regulations. *See* 40 CFR 62.02.

Accordingly, this action, once finalized, would merely approve state law that meets federal requirements, and would not impose additional requirements beyond those imposed by state law. For that reason, this action, once finalized:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)); and Executive Order 13563 (76 FR 3821 (Jan. 21, 2011));
- Is not an Executive Order 13771 (82 FR 9339 (Feb. 3, 2017)) regulatory action because section 111(d) plan 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 (Aug. 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)).

In addition, this rule 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 compliance costs on tribal governments, or preempt tribal law, as specified by Executive Order 13175 (65 FR 67249 (Nov. 9, 2000)).

### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

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

Dated: August 6, 2021.

**Walter Mugdan,**

*Acting Regional Administrator, Region 2.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 62 as set forth below:

## PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

### Subpart HH—New York

■ 2. Section 62.8104 is revised to read as follows:

**§ 62.8104 Identification of plan.**

(a) *Identification of plan.* On December 11, 2019, the New York State Department of Environmental Conservation (NYSDEC) submitted to the Environmental Protection Agency (EPA) a Clean Air Act revised section 111(d) state plan, to incorporate revisions to Title 6 NYCRR Parts 208 and 200 for the implementation of 40 CFR part 60, subpart Cf, ''Emissions Guidelines for Municipal Solid Waste Landfills.''

(b) *Identification of sources.* The plan applies to all existing municipal solid waste landfills under the jurisdiction of the New York State Department of Environmental Conservation that have accepted waste after November 8, 1987, and began construction, reconstruction, or modification on or prior to July 17, 2014, and have a design capacity threshold of 2.5 million megagrams (Mg) and 2.5 million cubic meters, as described in 40 CFR 60 subpart Cf.

(c) *Effective date.* The effective date of the plan for September 22, 2021.

(d) *Incorporation by reference.* (1) The material incorporated by reference in

this section was approved by the Director of the Federal Register Office in accordance with U.S.C. 552(a)(1) and 1 CFR part 51. The material is available from the sources identified elsewhere in this paragraph. It may be inspected or obtained from the EPA Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, 212–637–3378. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(2) State of New York, Department of State, Albany, New York 12231; *https://dos.ny.gov/state-register.*

(i) 6 NYCRR Part 208: Official Compilation of (New York) Codes, Rules and Regulations; Title 6—Environmental Conservation; Part 208—Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills, effective September 4, 2019.

(ii) [Reserved]

[FR Doc. 2021–17292 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 82

**[EPA–HQ–OAR–2020–0084; FRL–7810–02–OAR]**

**RIN 2060–AU80**

## Protection of Stratospheric Ozone: Extension of the Laboratory and Analytical Use Exemption for Essential Class I Ozone-Depleting Substances

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is taking final action to revise regulations governing the production and import of class I ozone-depleting substances in the United States to indefinitely extend the global essential laboratory and analytical use exemption. This exemption currently expires on December 31, 2021, and this final action allows for continued production and import of class I substances in the United States solely for laboratory and analytical uses that have not been identified by the Environmental Protection Agency as nonessential. This final action is taken under the Clean Air Act, and is consistent with a decision by the Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer* to extend the global laboratory and analytical use exemption indefinitely beyond 2021. The proposed rule associated with this final action was published on August 7, 2020, and we received no adverse comments.

**DATES:** This final rule is effective on September 22, 2021.

**ADDRESSES:** The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0084. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information 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. All other publicly available docket materials are available electronically in *https://www.regulations.gov.* Due to public health concerns related to COVID–19, the EPA Docket Center and Reading Room are closed to the public with limited exceptions. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Andy Chang, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202–564–6658; or email address: *chang.andy@epa.gov.* You may also visit our website at *https://www.epa.gov/ods-phaseout/phaseout-exemptions-laboratory-and-analytical-uses* for further information.

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:



## I. What is the background for this action?

### *A. What is the Agency's authority for this final action?*

The Clean Air Act (CAA) provides EPA the authority to implement the *Montreal Protocol on Substances that Deplete the Ozone Layer's* (Montreal Protocol's) phaseout schedules for ozone-depleting substances (ODS) in the United States. Relevant to this rulemaking, CAA section 604 requires EPA to issue regulations phasing out production and consumption of class I [1] ODS according to a prescribed schedule; our phaseout regulations for class I ODS are codified at 40 CFR part 82, subpart A.

### *B. Summary of EPA's Proposed Rulemaking and Public Comments*

EPA's August 7, 2020, proposed rulemaking (see 85 FR 47940) sought to align a provision in EPA's regulations governing the production and import of class I ODS regarding the essential laboratory and analytical use exemption (referred to hereafter as the ''L&A exemption'') with a recent decision taken by the Parties to the Montreal Protocol to extend the global L&A exemption indefinitely.[2] In the United States, laboratory distributors currently supply around 1,000 laboratories, and consumption [3] for laboratory use was approximately 4.4 ODP-weighted metric tons in 2018 under the L&A exemption [4] and 4.2 ODP-weighted metric tons in 2019 under the L&A exemption.[5] The global L&A exemption is implemented domestically through EPA's regulations at 40 CFR part 82, subpart A and the current exemption is in effect in the United States through December 31, 2021. In the proposed rulemaking (85 FR 47940), EPA proposed to remove the

[1] Under the CAA, certain ODS are classified as ''class I'' substances. Class I substances are listed in Appendix A to 40 CFR part 82, subpart A.

[2] *Decision XXXI/5: Laboratory and Analytical Uses,* available online at: *https://ozone.unep.org/treaties/montreal-protocol/meetings/thirty-first-meeting-parties/decisions/decision-xxxi5.*

[3] Consumption is defined in § 82.3 as ''production plus imports minus exports of a controlled substance (other than transhipments, or used controlled substances).''

[4] These 2018 data are available in the docket to this rule as well as on the Montreal Protocol's Ozone Secretariat's Data Centre web page: *https://ozone.unep.org/countries/data-table.*

[5] At the time of publication for the proposed rulemaking, the 2019 data were not yet available, but can now be found on the Montreal Protocol's Ozone Secretariat's Data Centre web page: *https://ozone.unep.org/countries/data-table.* Data specific to the United States' amounts consumed for laboratory and analytical uses, including 2019 data, can be found on this web page: *https://ozone.unep.org/countries/profile/usa.* These data have been added to the docket for this rulemaking.

December 31, 2021, time restriction, allowing for continued production and import of class I ODS in the United States after that date for laboratory and analytical uses that have not been identified by EPA as nonessential.

During the public comment period for the proposed rulemaking, which ended on October 6, 2020, EPA received a total of two comments which are publicly available in the docket. Both comments were in support of our proposed action; one comment noted that the proposed action was a cost- and time-effective revision, and the other comment supported the notion that laboratories could continue to obtain necessary and essential materials while being mindful of potential environmental impacts. EPA acknowledges the comments and concludes that they support the final action and do not require further response.

*C. Potentially Impacted Entities*

This final rule may potentially impact individuals or groups that manufacture, process, import, or distribute into commerce certain ODS and mixtures. These impacted entities and their associated North American Industrial Classification System (NAICS) codes may include but are not limited to:

- Basic chemical manufacturing (NAICS code 3251);
- Pharmaceutical preparations manufacturing businesses (NAICS code 325412);
- Other chemical and allied production merchant wholesalers (NAICS code 424690);
- Environmental consulting services (NAICS code 541620);
- Research and development in the physical, engineering, and life sciences (NAICS code 54171); and
- Medical laboratories (NAICS code 621511).

This list is not intended to be exhaustive; rather, it provides a guide for readers regarding entities likely to be affected by this final action. The NAICS codes provided above may assist in determining whether this final rule might apply to certain entities. Other types of entities not listed could also be affected, and EPA recommends that you consult the person listed under **FOR FURTHER INFORMATION CONTACT** if there are applicability questions.

*D. Background of the Laboratory and Analytical Use Exemption*

The United States was one of the original signatories to the 1987 Montreal Protocol and ratified it on April 12, 1988. After ratification, Congress enacted, and President George H.W. Bush signed into law, the CAA Amendments of 1990, which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure, among other things, that the United States could satisfy its obligations under the Montreal Protocol.

The Montreal Protocol is a multinational environmental agreement to protect Earth's ozone layer by phasing out the consumption and production of most chemicals that deplete it. The Montreal Protocol provides a set of schedules to phase out ODS and also provides for mechanisms to establish certain specific and limited exemptions. For most class I ODS, the Parties to the Montreal Protocol may agree to grant exemptions to the ban on production and consumption of ODS for uses that they determine to be ''essential.'' For example, with respect to chlorofluorocarbons (CFCs), Article 2A(4) of the Montreal Protocol provides that the phaseout will apply ''save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.'' Similar language appears in the control provisions for other ODS, such as halons (Article 2B), carbon tetrachloride (Article 2D), and methyl chloroform (Article 2E). As defined by Decision IV/25 of the Parties, ''use of a controlled substance should qualify as 'essential' only if: (1) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (2) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.'' Decision VI/9 of the Parties established a time-limited exemption under the Montreal Protocol for essential laboratory and analytical uses, consistent with the specifications in Annex II of the report of the Sixth Meeting of the Parties (MOP), which describes conditions applied to the exemption for laboratory and analytical uses such as purity, quantity, and specification for cylinders and handling for these controlled substances.

Consistent with the flexibility allowed for by the Parties, in 2001, EPA codified a L&A exemption in its domestic regulations (see 66 FR 14760, March 13, 2001). In the preamble to that rule, EPA determined that the statutory language in section 604 of the CAA provided grounds for the creation of a *de minimis* exemption for essential laboratory and analytical uses of certain class I ODS (id. at 14764–65). The 2001 rule explains how the controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of the small amounts of class I ODS used in such applications due to the Appendix G requirements under 40 CFR part 82, subpart A, for small quantity and high purity. For example, class I ODS must be sold in cylinders three liters or smaller or in glass ampoules 10 milliliters or smaller, as per Appendix G. Since issuing the original exemption, EPA has not received information that would suggest that the current controls in place for laboratory and analytical use do not provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of class I ODS used in such applications. As discussed later in this notice, the quantities of class I ODS used for this exemption have declined substantially since the exemption was initially created.

As summarized in the proposal for this final action, the Parties subsequently issued several decisions related to the global exemption, including periodic extensions, and EPA has also revised the exemption in its domestic regulations several times (see 85 FR 47941–92, August 7, 2020). Under Decision XXVI/5 at the 26th MOP, the Parties extended the global L&A exemption until December 31, 2021, which EPA implemented domestically through a rulemaking in 2015 (see 80 FR 3885, January 26, 2015). More recently, in November 2019, at the 31st MOP, the Parties agreed in Decision XXXI/5 to ''extend the global laboratory and analytical-use exemption indefinitely beyond 2021, without prejudice to the parties deciding to review the exemption at a future meeting.'' The Decision also encourages parties to further reduce their production and consumption of ODS for laboratory and analytical uses and to facilitate the introduction of laboratory standards that do not require such substances.

**II. What action is EPA taking?**

EPA is finalizing its August 7, 2020, proposal to indefinitely extend the global L&A exemption for class I ODS in 40 CFR 82.8(b). This action makes the regulatory exemption indefinite unless or until it is limited or eliminated through future rulemaking, *i.e.,* EPA still has the authority to review the scope of and need for the exemption at a future date. Upon the effective date of this final action, the regulations will no longer contain an expiration date for the exemption. The list of laboratory and analytical uses codified in Appendix G to 40 CFR part 82, subpart A, may also be revised through new rulemakings as

alternatives are identified through new standards.

Consistent with the proposal, this final action also contains clarifying text to explain that the global L&A exemption allows for the production and import of class I ODS that have been phased out in the United States, subject to certain restrictions as described in Appendix G to 40 CFR part 82, subpart A, and subject to the recordkeeping and reporting requirements at 40 CFR 82.13(u) through (x). The previous text in 40 CFR 82.8(b) established the exemption for essential laboratory and analytical uses but did not explicitly state that the exemption is from the prohibitions on production and import of class I ODS, although that is clear from context and the explanation in a previous rule (see 66 FR 14760, March 13, 2001). Consistent with the proposal, this final rule states the exemption more explicitly.

As noted in the proposed rule, there are several reasons why the Agency is making these changes. This action is consistent with Decision XXXI/5 by the Parties to the Montreal Protocol, and it will provide certainty with regards to the exemption without the need for periodic rulemakings to extend the exemption. This is important since non-ODS replacements for class I ODS may not be identified for all uses given the effort required to establish new analytical procedures for such small quantities of material. While some analytical procedures have transitioned, many ASTM International (formerly known as the American Society for Testing and Materials) and ISO (International Organization for Standardization) standards still require small amounts of ODS, and it could take years for standards organizations to develop alternatives and for laboratories to adopt the new standards.

From an environmental impact perspective, removing the deadline from the L&A exemption will also have little effect on the stratospheric ozone layer due to a combination of factors including the general decline of production and consumption of ODS for laboratory and analytical uses in the United States and the existing controls in place for laboratory and analytical uses.

Exempted consumption for laboratory and analytical uses in the United States peaked in 2004 at 55 ODP-weighted metric tons, and was only 4.4 ODP-weighted metric tons in 2018, which is a negligible amount.[6] Data for 2019, which became available after the publication date for EPA's proposed rulemaking, indicates that the exempted consumption for laboratory and analytical uses in the United States has decreased further to 4.2 ODP-weighted metric tons.[7] This sharp decline since 2004 indicates that many users (primarily laboratories) have been able to transition from ODS even with this exemption being available to them; as these laboratories continue to use non-ODS and/or continue to transition to non-ODS alternatives for laboratory and analytical uses, EPA anticipates that the decreasing trend for class I ODS for exempted consumption will generally continue. However, certain laboratory and analytical procedures continue to require the use of class I ODS in the United States. In the United States, there are currently ten laboratory distributors that supply around 1,000 laboratories with primarily carbon tetrachloride but also small quantities of chlorobromomethane, CFCs, methyl chloroform, and methyl bromide. Maintaining this exemption would provide laboratories with essential class I ODS for which no alternatives are currently available, with negligible environmental impacts.

Additionally, this action does not make any change in the controls that are in place for laboratory and analytical uses, and as discussed above in the section titled, ''*Background of the Laboratory and Analytical Use Exemption,*'' EPA's March 13, 2001, rule explains how these controls provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of small amounts of class I ODS used in such applications. Further, EPA has the authority to review the scope of and need for the exemption at a future date, for example if alternative methods become available or consumption begins to increase. Lastly, as noted earlier in this notice, we received two supportive comments and no adverse comments on the proposed rule associated with this final action. Based on consideration of all this information and the two comments that both supported the proposed rule, EPA is finalizing the action as proposed.

EPA encourages laboratories to continue ongoing efforts to transition to methods that do not require the use of ODS, and to share such information when available, as it could assist others in similar situations.

## III. 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 not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### *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 2060–0170. The laboratory and analytical use exemption currently expires on December 31, 2021, and this action allows for continued production and import of class I substances in the United States solely for laboratory and analytical uses that have not been identified by EPA as nonessential, and therefore there are no PRA implications. This action indefinitely removes the expiration date for the existing exemption from the prohibitions in production and import of class I ODS.

### *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 does not modify the recordkeeping and reporting requirements that apply to laboratory distributors who utilize the exemption. These requirements will continue to apply to distributors who use the exemption; however, the requirements are minimal and impose no significant burden. Further, nothing in this rule compels any entity to use the exemption. The Agency thus assumes that the burden reduction provided by the exemption from the phaseout on production and import of class I ODS outweighs the limited cost associated with recordkeeping and reporting. Otherwise, laboratory distributors could choose not to use the exemption, removing the need for relevant recordkeeping and reporting.

### *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

[6] These data are available in the docket to this rule as well as on the Ozone Secretariat's Data Centre web page: *https://ozone.unep.org/countries/data-table.*

[7] These data can now be found on the Montreal Protocol's Ozone Secretariat's Data Centre web page: *https://ozone.unep.org/countries/data-table.* Data specific to the United States' amounts consumed for laboratory and analytical uses, including 2019 data, can be found on this web page: *https://ozone.unep.org/countries/profile/usa.* These data have been added to the docket for this rulemaking.

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. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. EPA periodically updates tribal officials on air regulations through the monthly meetings of the National Tribal Air Association and will share information on this rulemaking through this and other fora.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Depletion of stratospheric ozone results in greater transmission of the sun's ultraviolet (UV) radiation to the earth's surface. The following studies describe the effects of excessive exposure to UV radiation on children: (1) Westerdahl J, Olsson H, Ingvar C. ''At what age do sunburn episodes play a crucial role for the development of malignant melanoma,'' *Eur J Cancer* 1994; 30A:1647–54; (2) Elwood JM, Japson J. ''Melanoma and sun exposure: An overview of published studies,'' *Int J Cancer* 1997; 73:198–203; (3) Armstrong BK. ''Melanoma: Childhood or lifelong sun exposure,'' In: Grobb JJ, Stern RS, Mackie RM, Weinstock WA, eds. *Epidemiology, causes and prevention of skin diseases* (pp 63–66), London: Blackwell Science, 1997; (4) Whiteman D, Green A. ''Melanoma and Sunburn,'' *Cancer Causes Control,* 1994; 5:564–72; (5) Heenan, PJ. ''Does intermittent sun exposure cause basal cell carcinoma? A case control study in Western Australia,'' *Int J Cancer* 1995; 60:489–94; (6) Gallagher RP, Hill GB, Bajdik CD, et al. ''Sunlight exposure, pigmentary factors, and risk of nonmelanocytic skin cancer I, Basal cell carcinoma,'' *Arch Dermatol* 1995; 131:157–63; (7) Armstrong, BK. ''How sun exposure causes skin cancer: An epidemiological perspective,'' In: Hill D, Elwood JM, English DR (eds.) *Prevention of Skin Cancer. Cancer Prevention—Cancer Causes, vol. 3* (pp 89–116). Dordrecht: Springer, 2004. However, as described in the section above titled ''What Action is EPA Taking?'', the environmental impacts are expected to be negligible.

*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.

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

The environmental impacts of this regulation are expected to be negligible given the low level of ODS produced and imported for the L&A exemption. As such, there are no disproportionately high and adverse human health or environmental effects from this action on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

*K. Congressional Review Act*

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 82**

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Imports, Methyl chloroform, Ozone, Reporting and recordkeeping requirements.

**Michael S. Regan,**

*Administrator.*

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

## PART 82—PROTECTION OF STRATOSPHERIC OZONE

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

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

■ 2. Section 82.8 is amended by revising paragraph (b) to read as follows:

**§ 82.8 Grant of essential use allowances and critical use allowances.**

* * * * *

(b) There is a global exemption for the production and import of class I controlled substances for essential laboratory and analytical uses, subject to the restrictions in appendix G of this subpart, and subject to the recordkeeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

* * * * *

[FR Doc. 2021–17745 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 54

**[WC Docket No. 18–89; FCC 21–86; FR ID 41783]**

## Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) adopts rules to modify the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) consistent with the Secure and Trusted Communications Networks Act of 2019, as modified by the Congressional Appropriations Act, 2021.

**DATES:** Effective October 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Brian Cruikshank, Wireline Competition Bureau, *brian.cruikshank@fcc.gov,* 202–418–3623 or TTY: 202–418–0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Third Report and Order in WC Docket No. 18–89; FCC 21–86, adopted July 13, 2021 and released July 14, 2021. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-acts-protect-national-security-communications-supply-chain-0.*

## I. Introduction

1. The Federal Communications Commission (Commission) continues to play a leading role protecting the security of its communications networks and communications supply chain. Securing its nation's networks from those who would harm the United States and its people is more important than ever due to the outsized impact that the internet has on its work, education, health care, and personal connections. Recognizing this reality, and the damage that attacks on these networks can and do cause, today the Commission modifies its rules to incorporate the Consolidated Appropriations Act, 2021 (CAA) amendments to the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act).

2. Specifically, in response to several sections of the CAA that provide additional guidance for and direct changes to the Commission's Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program), the Commission adopts several changes to the program rules. The Commission first increases the customer eligibility cap for participation in the Reimbursement Program. The Commission also modifies the type of equipment and services eligible for reimbursement and adjust the date by which equipment or services must have been obtained to be eligible for Reimbursement Program funds. The Commission further adopts the prioritization scheme created in the CAA and clarify the definition of ''provider of advanced communications service'' for purposes of the Reimbursement Program. Finally, the Commission clarifies portions of the Reimbursement Program to assist eligible providers as they prepare to seek reimbursement.

## II. Report and Order

3. After reviewing the record, the Commission implements several of the Commission's proposals to incorporate the CAA's amendments to the Secure Networks Act into its rules. Specifically, the Commission revises the eligibility to participate in the Reimbursement Program to providers of advanced communications service with 10 million or fewer customers; amend the scope of equipment and services that Reimbursement Program participants may use funding to remove, replace, or dispose; adjust the cutoff date for equipment and services eligible for reimbursement; adopt the CAA's prioritization scheme for distributing reimbursement funding; clarify the definition of ''provider of advanced communications service''; and clarify various aspects of the Reimbursement Program.

### *A. Eligibility for Participation in the Reimbursement Program*

4. The Commission first amends its rules to allow providers of advanced communications service with 10 million or fewer customers to participate in the Reimbursement Program, consistent with the Secure Networks Act, as amended by the CAA. Prior to enactment of the CAA, its rules limited Reimbursement Program eligibility to providers of advanced communications service with two million or fewer customers, in line with the participation restriction in section 4(b)(1) of the Secure Networks Act. In the CAA, however, Congress amended the Secure Networks Act to expand eligibility to providers of advanced communications service with 10 million or fewer customers. The rule revisions the Commission adopts today align eligibility for participation in the Reimbursement Program with the congressional directives in the CAA. This approach is also supported by comments in the record.

5. In the *2020 Supply Chain Order,* 86 FR 2904 (January 13, 2021), the Commission defined ''customer'' of a provider of advanced communications service as the customer of such provider as well as the customer of any affiliate of such provider. The Commission further defined ''affiliate'' as ''a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.'' The Commission maintains the definition of ''customer'' as interpreted in the *2020 Supply Chain Order* as those taking advanced communications service from the provider and/or its affiliate. As such, eligibility in the Reimbursement Program shall continue to be determined based on the number of customers to the specific advanced communications service offered by the provider and/or its affiliate, as set forth in the *2020 Supply Chain Order.*

6. Increasing the number of providers of advanced communications service eligible for the Reimbursement Program has important benefits. First, it will advance the Commission's goals of removing vulnerable equipment and services from its nation's communications networks by eliminating covered equipment and services from the networks of more providers. LATAM Telecommunications, LLC (LATAM) agrees, arguing that by expanding eligibility, in conjunction with the CAA's reimbursement prioritization scheme, ''Congress has given the Commission flexibility'' to secure a greater number of networks throughout the communications ecosystem. While the vast majority of providers of advanced communications service participating in the Reimbursement Program are expected to have fewer than two million customers, increasing the number of providers eligible for reimbursement will ensure the removal of covered equipment and services from a broader swath of its nation's communications networks. Furthermore, eligibility expansion will also reduce the likelihood that insecure equipment and services will remain in domestic communications networks.

7. The Commission rejects the argument that raising the cap would extend reimbursement eligibility to larger companies that ''do not need government assistance,'' and the Commission declines to use a different metric, such as revenue or net income, to determine eligibility for participation in the Reimbursement Program. From an administrative standpoint, utilizing customer count as the sole eligibility metric allows prospective participants and the Commission to easily determine participants' eligibility in the Reimbursement Program. The Commission also notes that a variety of entities have identified Huawei and ZTE equipment and services in their networks, indicating that until such equipment and services are removed, those networks are at risk, regardless of size. Furthermore, the Commission finds that its decision to expand eligibility for the Reimbursement Program is consistent not only with the statutory directive but also with the Commission's stated goals of the Reimbursement Program. Although the Commission anticipates that expanding participant eligibility will increase Reimbursement Program applications and demand, doing so does not frustrate its ability to administer a program that effectively and efficiently distributes funds in accordance with congressional

directives. By allowing more providers to participate in the Reimbursement Program, the Commission will further its goal of ensuring that insecure equipment and services are promptly removed from provider networks, thus improving the security and reliability of its nation's communications systems.

*B. Equipment and Services Eligible for Reimbursement*

8. Consistent with the CAA, the Commission modifies its rules to limit the equipment and services for which recipients may use Reimbursement Program funding to the removal, replacement, or disposal of communications equipment and services produced or provided by Huawei or ZTE that are on the Covered List. Because the Covered List includes all communications equipment and services produced or provided by Huawei or ZTE, all such equipment and services are eligible for reimbursement.

9. The CAA's amendments to the Secure Networks Act changed the scope of equipment and services eligible for reimbursement from the Reimbursement Program. Specifically, the CAA's amendments to the Secure Networks Act make ''covered communications equipment and services,'' as further specified by the *2019 Supply Chain Order,* 85 FR 48134 (August 10, 2020) or *Designation Orders,* eligible for reimbursement. The Commission is bound by the statutory language, and find that the Secure Networks Act, as amended, requires the Commission to limit the acceptable use of Reimbursement Program funds to the removal, replacement, and disposal of eligible equipment and services that are both: (1) On the Covered List published pursuant to section 2(a) of the Secure Networks Act; and (2) as captured by the definition of equipment or services established in the *2019 Supply Chain Order,* or as determined by the process set forth in section 54.9 of the Commission's rules and in the *Designation Orders.* In practice, as the Commission explains below, that means that *all* communications equipment or services produced or provided by Huawei and ZTE, the companies that are both included on the Covered List and subject to the *Designation Orders,* are eligible for reimbursement. The Commission also revises the scope of its section 54.11 remove-and-replace rule to require ETCs receiving USF support and recipients of Reimbursement Program funding to remove all Huawei and ZTE communications equipment and services from their networks, consistent with the scope of equipment and services eligible for reimbursement.

10. *Covered List.* The rules adopted in the *2020 Supply Chain Order* limit the use of Reimbursement Program funding to the removal, replacement, and disposal of covered communications equipment or services as published on the Covered List, consistent with section 4(c) of the Secure Networks Act before it was amended by the CAA. To be included on the Covered List, equipment and services must meet three requirements. First, they must be communications equipment, which the Commission defined in the *2020 Supply Chain Order* to include ''all equipment or services used in fixed and mobile broadband networks, provided they include or use electronic components.'' Second, the equipment and services must be identified as posing ''an unacceptable risk to the national security of the United States or the security and safety of United States persons'' by sources enumerated in section 2(c) of the Secure Networks Act. Third, the equipment and services must be capable of satisfying the criteria in section 2(b)(2)(A)–(C) of the Secure Networks Act. As discussed in more detail below, all communications equipment and services produced or provided by Huawei and ZTE are included on the Covered List.

11. *Designation Orders.* The *Designation Orders* prohibit the use of USF support for *all* equipment and services produced or provided by Huawei and ZTE because of their designations as covered companies under section 54.9 of the Commission's rules. As a result, some equipment and services identified pursuant to those section 54.9 designations may not be eligible for reimbursement under the rules of the Reimbursement Program if they do not meet the three requirements and therefore are not ''covered communications equipment and services,'' even though they are subject to the USF prohibition in section 54.9.

12. *Effect of CAA Amendments.* The Commission finds that further analysis of the effect of the CAA's amendments on section 4 of the Secure Networks Act compels it to slightly diverge from its original proposal in the *2021 Supply Chain Further Notice,* 86 FR 15165 (March 22, 2021). In that *Notice,* the Commission proposed to modify the scope of communications equipment and services eligible for reimbursement to those equipment and services produced or provided by covered companies subject to the *Designation Orders.* While there is record support for its original proposal, it overlooked the requirement in section 4(c) of the Secure Networks Act, as amended, to limit equipment and services eligible for reimbursement to those that are ''covered communications equipment and services,'' defined as communications equipment and services found on the Covered List. The Commission accordingly finds, based on a further review of the Secure Networks Act, as amended by the CAA, that Congress intended to limit the scope of equipment and services eligible for Reimbursement Program funding to a subset of equipment and services identified on the Covered List *and* that are either defined in the *2019 Supply Chain Order* or designated in the *Designation Orders.* As such, the Commission amends its rules consistent with the CAA.

13. Congress, in amending section 4(c) of the Secure Networks Act, modified the scope of equipment and services eligible for reimbursement but did not revise the definition of ''covered communications equipment or service'' found in section 9 of the Secure Networks Act, which defines ''covered communications equipment and services'' as equipment and services found on the Covered List. As a result, the Secure Networks Act, as amended, allows reimbursement for equipment and services from the companies designated as national security threats pursuant to section 54.9 of the Commission's rules that are *also* included on the Covered List. The Commission interprets the CAA's amendment as maintaining the Covered List as the baseline source for eligibility for the Reimbursement Program, but altering the scope of covered communications equipment and services to those equipment and services on the Covered List that are either defined in the *2019 Supply Chain Order* or designated in the *Designation Orders* and through the designation process in section 54.9 of the Commission's rules. To align its Reimbursement Program rules with the modified scope of eligible covered communications equipment and services, the Commission therefore revises its eligibility rules to specify that the equipment and services eligible for reimbursement are limited to communications equipment and services produced or provided by Huawei and ZTE, as they are covered companies designated in the *Designation Orders* under section 54.9 of the Commission's rules whose communications equipment is also on the Covered List.

14. The record generally supports its interpretation of the CAA amendments to section 4(c) of the Secure Networks Act. As the Rural Wireless Association, Inc. (RWA) states, the CAA's

amendment to section 4(c) of the Secure Networks Act makes clear Congress's intent ''that it did not mean to cover *all* equipment and services later placed on the Covered List,'' instead choosing to limit reimbursement funding to Huawei and ZTE communications equipment and services. Both RWA and Mediacom argue that the Commission's proposals are supported by provisions in the CAA that further align the scope of reimbursement with the equipment and services identified by the *2019 Information Collection Order,* 85 FR 230 (January 3, 2020), which sought data on Huawei and ZTE equipment and services contained in ETCs', and their subsidiaries and affiliates, networks. The Commission concurs that this alignment supports its interpretation that Congress intended to narrow the scope of eligible equipment and services to Huawei and ZTE communications equipment and services, as covered companies established in the *Designation Orders.* Furthermore, the CAA's revision to set the cutoff date for equipment and services eligible for reimbursement as the effective date of the *Designation Orders,* June 30, 2020, likewise indicates Congress's intent to synchronize the Reimbursement Program eligibility with the scope of equipment and services designated pursuant to section 54.9 of the Commission's rules.

15. The Competitive Carriers Association (CCA), NTCA—The Rural Broadband Association (NTCA), and the Secure Networks Coalition offer slightly varied interpretations of the CAA's amendment to section 4(c) of the Secure Networks Act. CCA argues that the CAA's amendment demonstrates Congress's ''intent to allow the use of Reimbursement Program funds to remove, replace, and dispose of equipment and services subject either to the Covered List *or* the Designation Orders, rather than including only equipment and services subject both to the Covered List *and* the Designation Orders.'' NTCA mischaracterizes the Commission's proposal, instead supporting revising the equipment and services subject to removal and reimbursement ''to encompass *all* equipment and services produced or provided by entities identified on the Commission's Covered List.'' The Secure Networks Coalition's similarly misconstrues the section 4(c) amendments. The Secure Networks Coalition argues that the CAA requires the Reimbursement Program to fund the replacement of all equipment, software, and services included on the Covered List. The Secure Networks Coalition claims that because Congress allocated funding to remove network equipment posing a national security risk to the nation's communications networks, the Commission must allow for the removal and replacement of any hardware or software from companies on the Covered List in order to meet Congress's mandate to mitigate risks to national security.

16. While the Commission agrees with commenters' conclusions that Congress intended to include Huawei and ZTE communications equipment and services in the scope of products eligible for reimbursement, the Commission rejects CCA, NTCA, and the Secure Network Coalition's interpretations of the CAA. Section 901 of the CAA amends section 4(c) of the Secure Networks Act by replacing the entire text of sections 4(c)(1)(A)(i) & (ii) to revise the scope of equipment and services eligible for reimbursement from those that are either published on the initial Covered List or subsequently placed on the Covered List, to those that are defined by the *2019 Supply Chain Order* or as determined by the designation process in section 54.9 of the Commission's rules and the *Designation Orders* designating Huawei and ZTE as covered companies. Section 901 does not, however, amend section 4(c)(1)(A), which limits reimbursement funding to the permanent removal of covered communications equipment or services, nor does it amend the definition of ''covered communications equipment or service'' in section 9(5) of the Secure Networks Act, which means any communications equipment or service on the Covered List.

17. The Commission concludes that had Congress intended to continue using the Covered List as the sole means to identify equipment and services eligible for reimbursement, it would have left the original provisions in the Secure Networks Act intact, rather than replacing them with different parameters. At the same time, Congress preserved the definition of ''covered communications equipment or service'' to include such items on the Covered List. This indicates Congress's intent to maintain the Covered List as a baseline source for eligible equipment and services. The amendments in section 901 of the CAA suggest that Congress meant to further limit reimbursement eligibility from the Covered List to the subset of those equipment and services defined in the *2019 Supply Chain Order* or subject to the designation process in section 54.9 of the Commission's rules. Specifically, Congress replaced language that formerly listed the Covered List as the sole source of equipment and service eligible for reimbursement with language identifying Huawei and ZTE equipment and services subject to the *Designation Orders* when setting the bounds of equipment and services eligible for reimbursement through the Reimbursement Program.

18. Therefore, CCA's interpretation, that Congress intended to allow reimbursement funds to be used for eligible equipment and services on either the Covered List or produced or provided by designated companies in the *Designation Orders,* does not comport with the structure of the amended section 4 of the Secure Networks Act. The amended section 4 still preserves the Covered List as the baseline source for eligible equipment and services but *then* limits eligibility to those such equipment and services as defined by the *2019 Supply Chain Order* or as determined by the designation process in section 54.9 of the Commission's rules and the *Designation Orders* designating Huawei and ZTE as covered companies. Nor do NTCA and the Secure Networks Coalition's interpretations supporting eligibility for all equipment and services on the Covered List reconcile with the CAA's amendments to section 4(c)(1) of the Secure Networks Act. Congress intended to limit eligibility to a subset of equipment and services on the Covered List by amending sections 4(c)(1)(A)(i) & (ii) to replace the original text, which referenced the Covered List, with a reference the *2019 Supply Chain Order,* the *Designation Orders,* and the Commission's process for designations under section 54.9 of its rules.

19. *Analysis of Covered List.* Consistent with the Commission's previous interpretation of the scope of Huawei and ZTE equipment and services included in the Covered List, the Commission interprets the CAA's revised scope of equipment and services eligible for reimbursement to include all communications equipment and services produced or provided by Huawei or ZTE. Section 2(b) of the Secure Networks Act requires the Commission to add to the Covered List communications equipment and services that satisfy certain functional capabilities, as determined by specific sources enumerated in section 2(c). In the *2020 Supply Chain Order,* the Commission acknowledged that section 889(f)(3) of the 2019 NDAA is one of the enumerated sources in section 2(c) for including equipment and services on the Covered List. Section 889(f)(3) defines ''covered telecommunications equipment and services'' to include ''(A) telecommunications equipment produced or provided by Huawei or

ZTE; [and] (C) telecommunications or video surveillance services provided by such entities or using such equipment.'' Notably, the Commission rejected arguments that it should have added a narrower list of equipment and services to the Covered List based upon a separate section of the 2019 NDAA, section 889(a)(2)(B), that limited the ''covered telecommunications equipment or services'' in the statute to equipment and services that can ''route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.'' The Commission found that Congress explicitly limited the scope of its procurement restrictions to Huawei and ZTE equipment in subsections (a) and (b) of the 2019 NDAA to equipment capable of routing or permitting network visibility, but did not include such a limitation in paragraph 889(f)(3), which governs the determination the Commission must add on the Covered List. Therefore, consistent with the Secure Networks Act statutory obligation, the Commission placed on the Covered List the determination found in section 889(f)(3)(A), that is, ''telecommunications equipment produced or provided by Huawei or ZTE'' capable of the functions outlined in sections 2(b)(2)(A), (B), or (C) of the Secure Networks Act.

20. The Commission finds that the Commission's prior interpretation of the 2019 NDAA provisions means that Huawei and ZTE communications equipment and services need not be capable of the functions listed in sections 2(b)(2)(A) or (B) of the Secure Networks Act to be on the Covered List. The Commission determined in the *2020 Supply Chain Order* that Congress chose to specifically include the broader definition of eligible equipment and services in section 889(f)(3), and the Commission concluded that section 889(f)(3) incorporated all such Huawei and ZTE communications equipment and services into the Covered List. Furthermore, in dismissing arguments to limit inclusion to only Huawei or ZTE equipment and services capable of the functionality enumerated in section 889(a)(2)(B) of the 2019 NDAA, the Commission interpreted the inclusion of section 2(b)(2)(C) of the Secure Networks Act, that is, including equipment and services capable of ''otherwise posing an unacceptable risk to the national security of the United States or the security and safety of United States persons,'' as indicative of Congress's intent to encompass on the Covered List equipment and services beyond the narrower list of enumerated functions. As the Commission stated in the *2020 Supply Chain Order,* ''[t]o limit the NDAA determination to equipment capable of routing or permitting network visibility would both ignore the plain text of the NDAA and read section 2(b)(2)(C) out of the Secure Networks Act, which lists the capabilities of communications equipment and services that warrant inclusion on the Covered List.'' Section 901 of the CAA is consistent with this interpretation. It carves out the equipment and services eligible for reimbursement into a limited subset of the Covered List, that is, only communications equipment and services as defined in the *2019 Supply Chain Order* or as determined by the process in section 54.9 of the Commission's rules and the *Designation Orders.* The *Designation Orders* prohibited the use of USF support for all Huawei and ZTE equipment and services. The Commission thus finds Congress in the CAA intended reimbursement eligibility for all Huawei and ZTE equipment and services found on the Covered List, that is, all Huawei and ZTE communications equipment and services.

21. Its decision today also advances the Commission's goals of developing a simple and straightforward reimbursement process that facilitates the expeditious removal, replacement, and disposal of equipment and services that threaten the security of its nation's communications systems. The Commission agrees with RWA that clarifying the scope of equipment and services eligible for reimbursement as Huawei and ZTE communications equipment and services, rather than all equipment and services on the Covered List, which currently includes three other companies and potentially others should the Commission add more, creates a bright line for Reimbursement Program participants to clearly identify what equipment and services are eligible, thus easing administrative costs for eligible providers and the Commission. By revising the scope of equipment and services eligible for reimbursement, the Commission provides clarity to providers of advanced communications service as to the expectations for participation in the Reimbursement Program and assurance as to what costs associated with the removal, replacement, and disposal of covered equipment and services they can expect to be reimbursed, if accepted.

22. The Commission further interprets the CAA amendments to determine that other equipment and services on the Covered List are not automatically eligible for reimbursement. Only equipment and services on the Covered List that are also defined in the *2019 Supply Chain Order* or that are produced or provided by covered companies designated under section 54.9 of the Commission's rules as posing a national security threat to the integrity of communications networks or the communications supply chain are eligible for reimbursement under the Reimbursement Program based on the CAA. The Commission agrees with CCA and Mediacom that the CAA amends section 4(c) of the Secure Networks Act to permit eligibility of such equipment and services from other designated companies, should the Public Safety and Homeland Security Bureau make such a determination pursuant to the process set forth in section 54.9 of the Commission's rules. Section 901 of the CAA amends section 4(c) of the Secure Networks Act to allow reimbursement funding to be used for the removal, replacement, and disposal of equipment and services as defined by the *2019 Supply Chain Order,* which adopted the process for designating covered companies that pose a national security threat to the integrity of communications networks or the communications supply chain found in section 54.9 of the Commission's rules. By listing the *2019 Supply Chain Order* in the CAA amendment, the Commission finds that Congress intended that the Commission's designation process serve as a source for identifying future equipment and services eligible for reimbursement from the broader Covered List; otherwise, Congress could have merely stated that the *Designation Orders* alone set the eligibility parameters. Therefore, should future companies be designated as posing a national security threat pursuant to section 54.9 of the Commission's rules, the Commission may consider costs associated with the removal, reimbursement, or disposal of equipment and services produced or provided by those covered companies eligible for reimbursement under the Reimbursement Program, provided that such equipment and services are also on the Covered List and the Reimbursement Program has an open filing window and adequate funding.

23. The Commission next finds that, to the extent there are future designations, equipment and services from such companies would be eligible for reimbursement from the Reimbursement Program without needing an additional appropriation from Congress. Congress has currently appropriated $1.9 billion for the

Reimbursement Program, which is very close to the number the Commission publicly identified in the 2019 information collection, as well as presented to Congress, as the cost to replace Huawei and ZTE equipment. The CAA also amends the eligibility cutoff date for covered equipment and services for reimbursement to align with the date that the *Designation Orders* were released, June 30, 2020. Both actions indicate Congress's intent to limit the eligibility of the current Reimbursement Program to the scope of such Huawei and ZTE equipment and services on the Covered List. Yet despite the signals that Congress intended this current appropriation to fund the removal, replacement, and disposal of such Huawei and ZTE equipment and services on the Covered List through the Reimbursement Program, Congress did not restrict funding to only those equipment and services, nor did it limit any future eligibility to specific appropriations. Therefore, as discussed herein, the Commission will continue to administer the Reimbursement Program in accordance with the prioritization scheme set forth in the CAA and adopted in this Third *Report and Order.*

24. To maintain consistency within the Reimbursement Program, the Commission also extends the revised scope of equipment and services eligible for reimbursement throughout its rules related to the administration of the Reimbursement Program. Specifically, the Commission extends this revised scope to all references to ''covered communications equipment or service'' contained in section 4 of the Secure Networks Act, and the Commission's rules implementing that section. As noted herein, while the CAA amends the scope of equipment and services eligible for reimbursement from those solely on the Covered List to those also either defined in the *2019 Supply Chain Order* or subject to the Huawei and ZTE *Designation Orders* and any future designated entities identified under its designation process established in the *2019 Supply Chain Order,* it does not revise the definition of ''covered communications equipment or service'' found in section 9 of the Secure Networks Act, which defines ''covered communications equipment and services'' as equipment and services found on the Covered List. As such, other references to ''covered communications equipment or service'' in section 4 of the Secure Networks Act do not reflect the revised scope of eligible equipment and services as amended by the CAA. This incongruity could lead to discrepancies between the equipment and services participants are required to remove and dispose of and the equipment and services for which they are permitted to spend reimbursement funding for removal, replacement, and disposal. The Commission believes that Congress intended to make reimbursement funds available for all such equipment and services participants are required to remove. To reconcile any potential conflicts wherein Reimbursement Program participants are required to permanently remove and dispose of equipment and services from the Covered List as set forth in their plans as obligated by their participation, the Commission interprets the scope of covered communications equipment and services referenced throughout section 4 of the Secure Networks Act as aligning with the scope of equipment and services eligible for reimbursement, that is, such equipment and services on the Covered List that are as defined by the *2019 Supply Chain Order* or as determined by the process established in the *2019 Supply Chain Order* and in the *Designation Orders.*

25. The Commission emphasizes that the CAA's amendment and its subsequent modification to the Commission's rules apply only to the Reimbursement Program and do not implicate other sections of the Secure Networks Act. Congress narrowly limited its amendment to section 4 of the Secure Networks Act and as such, the Commission limits its applicability to the corresponding sections of the Commission's rules. The Covered List, published and maintained pursuant to section 2 of the Secure Networks Act, is still in full effect as applicable to the section 3 prohibition on the use of Federal subsidies and the section 5 information reporting requirement, and to the Commission's rules implementing those provisions of the Secure Networks Act. Furthermore, the modification does not impact or revise the prohibition on the use of USF support for equipment or services produced or provided by covered companies, pursuant to section 54.9(a) of the Commission's rules. The Public Safety and Homeland Security Bureau may still designate companies which pose a national security threat via the process set forth in section 54.9(b) of the Commission's rules, to which the prohibition in section 54.9(a) would apply.

26. The Commission next determines that the modification to the scope of equipment and services eligible for reimbursement is effective 60 days after publication in the **Federal Register**, as applied to prospective applicants to the Reimbursement Program. All providers of advanced communications service that participate in the Reimbursement Program must remove, replace, and dispose of all such communications equipment and services from Huawei and ZTE, in accordance with the deadlines set forth in the Reimbursement Program rules. To the extent future designations may identify additional companies from the Covered List that pose a national security threat to the integrity of communications networks and the communications supply chain after the initial application period for the Reimbursement Program, the Commission directs the Wireline Competition Bureau, in consultation with the Office of the Managing Director, to issue further guidance clarifying the procedure for seeking reimbursement for removal, replacement, and disposal costs associated with eligible equipment and services, should the Reimbursement Program be accepting applications and sufficient reimbursement funding be available.

27. *Remove-and-Replace Rule.* The Commission further revises the remove-and-replace rule adopted by the Commission in the *2020 Supply Chain Order* to align the scope of equipment and services required for removal and replacement with the scope of equipment and services now eligible for reimbursement through the Reimbursement Program. Therefore, recipients of funding through the Reimbursement Program and ETCs receiving USF support must remove and replace equipment and services from the Covered List that are defined in the *2019 Supply Chain Order* or subject to the *Designation Orders* and the process for designating companies that pose a national security threat to the integrity of communications networks or the communications supply chain, as set forth in the *2019 Supply Chain Order.* Because the Commission currently has only designated Huawei and ZTE as covered companies from the list of five companies found on the Covered List, Reimbursement Program funding recipients and ETCs receiving USF support must remove and replace Huawei and ZTE communications equipment and services from their networks.

28. In the *2020 Supply Chain Order,* the Commission adopted section 54.11, requiring that ETCs receiving USF support and recipients of Reimbursement Program funding remove and replace all covered communications equipment and services on the Covered List from their networks. The Commission made compliance with the remove-and-

replace requirement contingent upon an appropriation from Congress to the Reimbursement Program. Reimbursement Program recipients must certify compliance as a condition to their participation, as required by various provisions of the Secure Networks Act. ETC recipients of USF support must certify that they have complied with section 54.11 after the Reimbursement Program opens, and subsequently certify compliance before receiving USF support each funding year.

29. Its decision is consistent with the Commission's prior approach to requiring removal of vulnerable equipment and services from the nation's communications networks. Upon adoption of the remove-and-replace rule, the Commission stated its intent to align the scope of equipment and services subject to section 54.11 of the Commission's rules with the scope of equipment and services eligible for reimbursement under the Reimbursement Program. Doing so, the Commission found, ''better aligns compliance with removal and replacement obligations to the administration of the Reimbursement Program and creates a bright-line determination for ETCs receiving USF support and reimbursement recipients to easily identify equipment and services to remove and replace from their networks.'' Because the Commission finds the CAA amends the Secure Networks Act to modify the equipment and services eligible for reimbursement from solely those on the Covered List to those on the Covered List and also defined in the *2019 Supply Chain Order* or subject to the designation process in section 54.9 of the Commission's rules and the *Designation Orders,* the Commission modifies the remove-and-replace rule to preserve the alignment of the equipment and services subject to removal under section 54.11 and through the Reimbursement Program. The Commission finds that using the equipment and services on the Covered List that are defined in the *2019 Supply Chain Order* or subject to the designation process in section 54.9 of the Commission's rules and the *Designation Orders* to determine both the equipment and services subject to the remove-and-replace requirement and the equipment and services eligible for reimbursement through the Reimbursement Program creates a bright-line determination for entities complying with section 54.11 and those participating in the Reimbursement Program. Therefore, the Commission finds that it should not be overly burdensome for entities to identify the equipment and services in their networks required for removal and replacement.

30. The record supports its decision to align the scope of equipment and services required for removal under section 54.11 with the scope of equipment and services eligible for reimbursement through the Reimbursement Program. As NTCA claims, this revision ''eliminates the incongruity created by the Commission's prior rules and the Secure Networks Act wherein the scope of equipment and services that [ETCs] were required to remove and replace exceeded the equipment and services eligible for reimbursement.'' The Commission further concurs with NTCA and Mediacom that modifying the scope of the remove-and-replace requirement to match the scope of eligible equipment and services in the Reimbursement Program provides clarity to providers, thus ultimately easing administrative burdens as providers work to remove Huawei and ZTE equipment and services from their networks.

31. The Commission rejects Huawei's argument that because the Commission lacks authority to mandate removal and replacement, it likewise has no authority to modify the scope of the equipment and services subject to the requirement. As discussed at length in response to similar arguments Huawei raised in the *2020 Supply Chain Order,* the Commission found that several statutory provisions provided appropriate authority for adoption of the remove-and-replace rule. Section 4 of the Secure Networks Act requires recipients of Reimbursement Program funding to permanently remove and replace all covered communications equipment and services from their networks as a condition of receiving the funding, and to certify to that effect throughout the reimbursement process. The Commission also found that provisions of the Communications Act, including those related to its authority governing universal service, provided legal authority for the application of the remove-and-replace rule to ETCs that receive USF support. Nothing in the CAA or the record changes the Commission's previous finding that the Commission has authority to require recipients of Reimbursement Program funding and ETCs receiving USF support to remove and replace covered equipment and services. While the Commission acknowledges that section 901 of the CAA amends some provisions of the Secure Networks Act, including the scope of the equipment and services eligible for reimbursement, the CAA does not disturb the provisions that authorize the Commission's mandate, as discussed in the *2020 Supply Chain Order.* On the contrary, the CAA's amendments to the Secure Networks Act bolster its position that the Commission has authority to require the removal of equipment and services from covered companies designated pursuant to section 54.9 of the Commission's rules. First, Congress incorporated the Commission's designation process and current designations of Huawei and ZTE as covered companies into its limitation on the use of Reimbursement Program funds. Second, Congress revised the cutoff date for equipment and services eligible for reimbursement to June 30, 2020, the date the *Designation Orders* were released. Both actions indicate Congress's support for the Commission's authority to designate Huawei and ZTE as covered companies and are evidence of congressional intent to ensure removal of Huawei and ZTE equipment and services from its nation's communications networks and supply chain. By incorporating the Commission's previous actions as the basis for reimbursement eligibility, the CAA provides even more support for the Commission's position that it was authorized to take that action.

32. The Commission similarly rejects Huawei's argument that the CAA does not provide the authority to expand the scope of equipment and services subject to the remove-and-replace requirement. As discussed above, when adopting the remove-and-replace rule, the Commission intended to align the scope of equipment and services subject to the requirement with the scope of equipment and services Congress intended for reimbursement—prior to the CAA's amendments, the Covered List. By amending the scope of equipment and services eligible for reimbursement to a subset of products on the Covered List that are defined in the *2019 Supply Chain Order* or subject to the designation process and *Designation Orders,* the CAA necessitates a corresponding modification to the scope of equipment and services subject to removal and replacement under section 54.11 of the Commission's rules. The Commission finds the CAA supports its action to align the scope of equipment and services required for removal with those eligible for reimbursement as set forth by Congress.

33. The modifications to the remove-and-replace requirement adopted herein are limited to the scope of equipment and services subject to removal and do not revise the scope of entities required

to comply nor the procedures for certifying compliance. In the *2020 Supply Chain Order,* the Commission stated that both ETCs receiving USF support and recipients of Reimbursement Program funding are required to remove and replace from their networks covered communications equipment and services. While the expansion of eligible participants in the Reimbursement Program now includes providers of advanced communications service with 10 million or fewer customers, which, as stated herein, will encompass the vast majority of providers, participation in the Reimbursement Program remains voluntary. If a provider of advanced communications service decides to apply to the Reimbursement Program, it expressly agrees to permanently remove and dispose of covered communications equipment or services. Similarly, the Tenth Circuit has held that the Commission may ''specify what a USF recipient may or must do with the funds,'' consistent with the policy principles outlined in section 254(b) of the Communications Act, and designation as an ETC and participation in universal service programs is voluntary. Providers currently designated as ETCs and that participate in USF programs may relinquish their ETC status or decline to participate in USF programs should they wish to avoid compliance with its rules.

34. Compliance with its mandate to remove and replace covered communications equipment and services as described herein continues to apply to ETCs receiving USF support, in addition to participants in the Reimbursement Program, as a condition of receiving universal service or reimbursement funding, respectively. The CAA amendments did not modify those obligations. As such, the Commission will continue to require ETC recipients of universal service funding to certify that they have complied with the remove and replace requirement for the new scope of covered equipment and services from the Covered List and as defined in the *2019 Supply Chain Order* or subject to the designation process in section 54.9 of the Commission's rules and the *Designation Orders,* as established in the *2020 Supply Chain Order.*

35. The Commission clarifies that the remove-and-replace rule extends only to equipment or services on the Covered List that have also been produced or provided by companies that have been designated by the Public Safety and Homeland Security Bureau as posing a national security threat to the integrity of communications networks or the communications supply chain. Consistent with its original remove-and-replace rule, any future remove-and-replace obligation for additional designations that are included on the Covered List will be contingent on the existence of funding to remove and replace the equipment or services produced or provided by such designated covered company. If the Public Safety and Homeland Security Bureau makes any such future final designations, following any appropriations to fund the removal and replacement of equipment or services produced or provided by those covered companies, the Commission will require ETCs receiving USF support to remove equipment and services produced or provided by designated companies that are on the Covered List before they are next obligated to certify that they have removed all covered equipment and services from their networks on their applications for any USF support. The process for announcing an initial designation provides adequate notice that ETCs receiving USF support may be required to remove equipment and services from that company, should a final designation be issued.

### *C. Timing Requirement for the Reimbursement Program*

36. The Commission next amends the Reimbursement Program rules to allow recipients to use reimbursement funds to remove, replace, or dispose of any equipment or services that were purchased, rented, leased, or otherwise obtained on or before June 30, 2020, consistent with the CAA's amendments to the Secure Networks Act. Currently, pursuant to section 4(c)(2)(A) of the original Secure Networks Act, its rules prohibit Reimbursement Program recipients from using such funds to remove, replace, or dispose of equipment and services obtained, in the case of any covered communications equipment or service that is on the initial Covered List published pursuant to section 2(a) of the Secure Networks Act, on or after August 14, 2018, or, in the case of any covered communications equipment or service that is not on the initial Covered List published pursuant to section 2(a), the date that is 60 days after the date on which the Commission places such equipment or service on the Covered List. The CAA however, amends the Secure Networks Act to allow recipients of Reimbursement Program funding to use such funding on equipment and services purchased before June 30, 2020, the date that the Public Safety and Homeland Security Bureau issued the *Designation Orders.* The Commission amends its rules to satisfy the new timing for eligible equipment and services set forth in the CAA amendments.

37. The clear language of the CAA's amendment to section 4(c)(2)(A) of the Secure Networks Act establishing June 30, 2020 as the eligibility cutoff date compels the Commission to modify its rules. The amended cutoff date for eligible equipment and services is also consistent with the Public Safety and Homeland Security Bureau's orders designating Huawei and ZTE as companies that pose a national security threat to the integrity of communications networks or the communications supply chain. Following initial designations adopted in the *2019 Supply Chain Order,* the Public Safety and Homeland Security Bureau issued final designations of Huawei and ZTE on June 30, 2020, pursuant to section 54.9 of the Commission's rules. When setting the effective date of Huawei's final designation as immediately upon release of the *Huawei Designation Order,* the Public Safety and Homeland Security Bureau concluded that ''the risks to its national communications networks and communications supply chain posed by Huawei's equipment necessitate immediate implementation of its designation.'' The Public Safety and Homeland Security Bureau relied on a similar justification for the immediate effective date of ZTE's final designation. Therefore, as of June 30, 2020, USF support could no longer be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by Huawei or ZTE.

38. In addition to being statutorily mandated, the June 30, 2020 cutoff date for equipment and services initially eligible for removal, replacement, and disposal under the Reimbursement Program advances the Commission's goals of removing vulnerable equipment from its nation's communications networks. Additional equipment and services from designated companies that may have been legally purchased or deployed into networks between 2018 and June 30, 2020 are now eligible for reimbursement, thus ensuring their effective removal from the networks of participants in the Reimbursement Program. Furthermore, by amending the eligibility cutoff to June 30, 2020, Congress intended to establish the *Designation Orders* as a clear delineation for what equipment and services would be eligible for reimbursement. Consistent with the Commission's rules, Congress did not intend to allow providers to seek reimbursement for equipment

purchased after the Public Safety and Homeland Security Bureau issued the final *Designation Orders.* Therefore, the Commission revises its rules for the Reimbursement Program to limit reimbursement to equipment and services purchased on or before the *Designation Orders* were released, consistent with the CAA.

39. Commenters support its proposal to modify the cutoff date for reimbursement eligibility for equipment and services. RWA argues that retaining the previous cutoff date, August 14, 2018, would be ''inequitable to eligible carriers who at that time were not even aware of the availability of a reimbursement program,'' which was first introduced in the Secure Networks Act in 2019 and later incorporated into the Commission's rules in the *2020 Supply Chain Order.* Northern Michigan University posits that adjusting the date to align with the effective date of the *Designation Orders* will ''facilitate a more timely replacement program'' and ensure that systems will be replaced with modern, secure facilities. The Commission agrees with commenters that amending its Reimbursement Program rules to set a June 30, 2020 cutoff date will help program participants to recover costs associated with the removal, replacement, and disposal of such Huawei and ZTE equipment and services at the time the *Designation Orders* were released, thus fairly ensuring the timely and effective removal and replacement of such vulnerable equipment from its communications systems.

40. As discussed above, the Commission finds that the current scope of the Reimbursement Program is limited to such communications equipment and services produced or provided by the current covered companies, *i.e.,* Huawei and ZTE. As a result, costs associated with the removal, replacement, and disposal of all such Huawei and ZTE telecommunications equipment or services purchased prior to June 30, 2020, will be eligible for reimbursement. This result is further supported by Congress's establishment of June 30, 2020, the release date of the *Designation Orders* designating Huawei and ZTE as covered companies, as the cutoff date. Furthermore, Mediacom supports using a ''single, certain date'' to ease administrative burdens in determining whether purchased equipment or services falls within the deadlines for reimbursement, rather than continually monitoring whether such products that may be added to the Covered List are eligible under the previous rules. The Commission agrees that establishing June 30, 2020 as a bright-line date for equipment and services eligible for reimbursement will help to ease administrative burdens by allowing participating providers to more easily identify such Huawei and ZTE equipment and services as eligible for removal, replacement, and disposal. Aligning the cutoff date with the release date for the Huawei and ZTE *Designation Orders* also signals to Reimbursement Program participants that such Huawei and ZTE equipment and services purchased prior to June 30, 2020 are eligible for reimbursement at this time.

41. CCA supports modifying the timing cutoff for eligible equipment and services yet asks that the Commission ensure that its rule be ''flexible enough to encompass dates related to a subsequent designation of equipment or services manufactured by companies that pose a security threat.'' The Commission finds that, since Congress intended for equipment and services on the Covered List produced or provided by companies designated pursuant to section 54.9 of the Commission's rules to be eligible for reimbursement funding, further clarification as to the eligible cutoff date for such equipment and services designated in the future is warranted.

42. Prior to its amendment, section 4(c) of the Secure Networks Act established an alternative effective date of 60 days after any covered communications equipment or services are added to the Covered List; however, the CAA removes this provision and is ultimately silent as to the eligible date for equipment and services should the Public Safety and Homeland Security Bureau designate additional companies on the Covered List as national security threats under section 54.9 of the Commission's rules. Similar to the original provision in the Secure Networks Act, the Commission adopts a comparable period of 60 days before the effect of any subsequent designation. Therefore, communications equipment or services produced or provided by such covered companies designated under section 54.9 that are subsequently added to the Covered List will become eligible 60 days after the date on which the Commission places such equipment or service on the Covered List. Reimbursement Program participants will similarly be prohibited from using reimbursement funding to remove, replace, or dispose of such equipment or services purchased, rented, leased, or otherwise obtained more than 60 days after such designation is final. The process by which the Public Safety and Homeland Security Bureau designates companies as posing a national security threat to the integrity of communications networks or the communications supply chain involves several opportunities for notice prior to the final designation going into effect. Given the precedent for a 60-day effective period in the Secure Networks Act and the notice provided through the designation process, establishing this time frame for the effective date of any equipment or services from the Covered List that are produced or provided by companies covered under subsequent designations is reasonable for providers to identify newly eligible equipment and services. This effective period is also consistent with the 60-day time period in sections 3 and 5 that remains in the Secure Networks Act following the CAA amendments.

*D. Prioritization if Reimbursement Program Demand Exceeds Supply*

43. The Commission next amends its Reimbursement Program rules to replace the prioritization scheme adopted in the *2020 Supply Chain Order* with the prioritization paradigm Congress expressly adopted in the CAA. These prioritizations will govern the allocation of funds in the event requests for reimbursement funding exceed the appropriated money available for such reimbursement.

44. The Commission, in the *2019 Information Collection Order,* directed ETCs to report whether they use or own Huawei or ZTE equipment or services in their networks, or the networks of their affiliates and subsidiaries, and to report the cost of removing and replacing such equipment and services. The Wireline Competition Bureau and the Office of Economics and Analytics released the results of this information collection in September 2020, finding that it would cost an estimated $1.837 billion to remove and replace Huawei and ZTE equipment in respondents' networks. In releasing the estimate, the Wireline Competition Bureau and the Office of Economics and Analytics noted that not all providers of advanced communications service that may be eligible for reimbursement under the Secure Networks Act participated in the information collection. Following the information collection, Congress appropriated $1.9 billion to the Commission to ''carry[ ] out'' the Secure Networks Act, including $1.895 billion for the Reimbursement Program.

45. In the *2020 Supply Chain Order,* issued before the congressional appropriation, the Commission adopted a prioritization paradigm that would take effect should ''the estimated costs for replacement submitted by the

providers during the initial or any subsequent filing window in the aggregate exceed the total amount of funding available as appropriated by Congress for reimbursement requests.'' The Commission decided to first allocate funding to ETCs subject to a remove-and-replace requirement under the Commission's rules. If funding is insufficient to meet total demand from this category, the Commission would prioritize ''funding for transitioning the core networks of these eligible providers before allocating funds to non-core network related expenses.'' If funding was available after fully funding the prior category, the Commission would then prioritize non-ETCs that provided cost estimates as part of the *2019 Information Collection,* with the same priority for replacing core network equipment over non-core equipment. Finally, if money remained after funding reimbursement requests for the first two groups, the Commission would disburse funding to other qualified non-ETC providers of advanced communications services, with the same priority for replacing core network equipment. The Commission decided to prorate the available funding equally across all requests in an individual category if ''available funding is insufficient to satisfy all requests in a certain prioritization category.''

46. When Congress enacted the CAA, however, it provided its own prioritization paradigm for the Reimbursement Program. The Commission sought comment on how the CAA's prioritization differed from the one the Commission adopted in the *2020 Supply Chain Order* and whether, in light of these changes, the Commission should modify the existing Reimbursement Program rules. After reviewing the record, the Commission adopts the prioritization paradigm Congress expressly provided in the CAA and discard the one previously adopted in the *2020 Supply Chain Order.*

*1. CAA Prioritization*

47. The CAA directs that ''the Commission shall allocate sufficient reimbursement funds . . ., first, to approved applications that have 2,000,000 or fewer customers . . ., [then] to approved applicants that are accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband services . . . [and] health care providers and libraries providing advanced communications service, [then] to any remaining approved applicants determined to be eligible for reimbursement under the [Reimbursement] Program.''

48. Congress's intent was clear that the CAA should replace the Commission's prioritization paradigm with its own. In the *2020 Supply Chain Order,* the Commission created its own prioritization paradigm because, in the Secure Networks Act, ''Congress did not provide for, or expressly prohibit, any funding prioritization scheme.'' That is no longer the case. The Commission finds that the Commission has no discretion to deviate from the CAA's provided prioritization paradigm. The record supports its conclusion. For example, USTelecom notes that ''Congress left the Commission no discretion in this regard.'' CCA also agrees that the ''Commission should implement Congress' prioritization scheme to ensure funding is distributed first to smaller carriers with 2 million or fewer customers'' and argues that the ''success of the Reimbursement Program hinges on rigorous adherence to this prioritization scheme.'' Mediacom also supports this change because ''not only is the revised schedule consistent with the CAA, but it also . . . recognizes that those providers [with two million or fewer customers] need the greatest assistance because they have more limited resources.'' Mediacom adds that ''the funds appropriated by the CAA . . . are finite and rely on data that was collected primarily from providers with two million or fewer subscribers. The Commission must therefore ensure that the limited funds are allocated to those who need it most and on whose costs the funds are based.'' NTCA expresses support for the new prioritization process as ''consistent with the CAA as well as the [Secure Networks Act]'' and because ''[s]maller providers already operate on razor thin margins [and] adding the financial cost of replacing existing equipment outside of its normal upgrade cycle or losing universal service funding would be a crushing burden.'' The Commission agrees with these commenters and adopt, as expressly provided, the prioritization paradigm in the CAA to replace the one the Commission created in the *2020 Supply Chain Order.*

49. Under this paradigm, the Commission will first allocate funding to providers of advanced communications service with two million or fewer customers. The Commission will then allocate funding to approved applicants that are accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband services and health care providers and libraries providing advanced communications service. The Commission will then allocate funding to any remaining applicants determined to be eligible for reimbursement under the Reimbursement Program.

*2. Other Considered Prioritization Categories*

50. The CAA's amendments did not set forth how the Commission should allocate funding within a particular category if funding was insufficient to meet demand. If, for example, demand for reimbursement funding among qualified applicants with two million or fewer customers exceeds $1.895 billion, the Commission will not be able to fully fund all applicants. After reviewing the record, the Commission finds that the most equitable solution, and the one that is consistent with the Secure Networks Act direction that the ''Commission make reasonable efforts to treat all applicants on a just and fair basis,'' requires the Commission to adopt a pro-rata distribution system in the event demand exceeds supply at any given prioritization level. Thus, if available funding is insufficient to satisfy all requests in a prioritization category, the Commission will prorate the available funding equally across all requests in this category. Applicants with accepted applications to participate in the Reimbursement Program will be funded at a percentage proportional to the estimated amount included in the application. The Commission therefore discards any sub-prioritization levels adopted in the *2020 Supply Chain Order.* As USTelecom explains in support of this position, ''the Commission should decline to sub-prioritize within the prioritization categories established by Congress.'' USTelecom warns that ''if any sub-prioritization had any effect, it would be to reduce funding to one or more applications in favor of others notwithstanding Congress's expectation that they would be treated equally.'' The Commission agrees and notes, as USTelecom argues, ''Congress had knowledge of the prioritization scheme that the Commission was going to use for its reimbursement program . . . [but] intentionally set new, and different, priorities.''

a. Decline To Prioritize Core Network Equipment

51. When the Commission adopted its previous prioritization paradigm, the Commission reasoned that ''replacing the core network is the logical first step in a network transition and may have the greatest impact on eliminating a national security risk from the network.'' Thus, in the *2020 Supply*

*Chain Order,* the Commission held that if funding is insufficient to meet total demand from a particular category, the Commission would prioritize ''funding for transitioning the core networks of these eligible providers before allocating funds to non-core network related expenses.'' Though the Commission has seen nothing in the record to convince it otherwise, and some commenters, such as Mediacom ''support[ ] prioritizing core equipment over non-core equipment,'' the prioritization scheme in the CAA does not indicate a preference for core network equipment over non-core equipment. The CAA paradigm only asks the Commission to first consider applications from providers with two million or fewer customers. It does not address any preference to replace certain types of covered equipment in telecommunications networks. Neither the CAA nor the Secure Networks Act provides the Commission with guidance to determine which specific communications equipment and services would comprise any ''core network.'' Thus, to ensure that ''reimbursement funds are distributed equitably across all applicants . . .,'' and to ease administrative burdens, the Commission will not prioritize core equipment over any other type of equipment. The Commission finds that discarding this sub-prioritization category will provide more clear guidance to the Reimbursement Program Fund Administrator (Fund Administrator) and applicants during the Reimbursement Program funding allocation process.

52. The Commission reaches the same conclusion in considering Mavenir's suggestion that the Commission prioritizes Open Radio Access Network (O–RAN) reimbursement requests over those from carriers that choose to use traditional or proprietary RAN. Mavenir comments that the Commission should allow for a priority for O–RAN technology because such technology may be more secure than traditional network technology, may allow United States-based vendors to compete on a more level playing field with foreign counterparts, and will allow for easier and cheaper network upgrades in the future. The Commission is mindful of the potential benefits associated with a transition to more virtual networks but nevertheless decline to establish a preference for such equipment and services. The CAA's prioritization paradigm expressly provides for no such preference for O–RAN or any other type of equipment or service, so the Commission similarly declines to do so. The Commission emphasizes that Reimbursement Program recipients may choose to replace their existing covered equipment and services with O–RAN equipment and services, and the Commission recommends that providers participating in the Reimbursement Program consider all potential vendors, including O–RAN providers, before selecting their replacement equipment and services.

b. Decline To Prioritize Eligible Telecommunications Carriers

53. In the *2020 Supply Chain Order,* the Commission reasoned that ETCs, who are required to remove covered equipment and services from their networks, ''face greater consequences than non-ETC providers'' so ''there is a greater urgency to expeditiously accommodate the transition of ETC networks over other applicants.'' The Commission thus explicitly prioritized ETC applicants over non-ETC applicants, who are not required to remove covered equipment and services unless they participate in the Reimbursement Program. However, the CAA does not indicate a preference for ETC applicants over non-ETC applicants. Instead, it directs the Commission to prioritize smaller carriers first, then schools, health care providers, and libraries, and then larger carriers. The Commission therefore reconsiders and revises its prior prioritization scheme to remove any preference for ETC applicants for the same reasons the Commission declines to prioritize the replacement of core network equipment and services. To ensure Reimbursement Program funding is distributed equitably, and to provide clear guidance to Reimbursement Program applicants, the Commission will implement the prioritization scheme as provided by Congress in the CAA.

54. The record supports this decision. Mediacom argues that the old preference for ETCs ''was inconsistent with the Secure Networks Act and contrary to the public interest.'' Mediacom contends that many non-ETCs made ''significant investments in removing and replacing their equipment and services based on the belief, supported by the Secure Networks Act, that they would be reimbursed for those costs. The Commission should not punish those providers that acted early and have been proactively attempting to comply with the statute.'' PTA–FLA also writes that ''Congress plainly did not envision ETCs receiving all or virtually all of the funds available since it stressed that funds should be made available equitably to *all* applicants, a command that would not be heeded if non-ETCs are effectively precluded from receiving any funds.'' PTA–FLA argues ETCs should receive funding, ''but not to the exclusion of other worthy recipients who have not had the advantage of receiving USF money to fund their build-outs and operations.''

55. RWA contends that the CAA ''does not prohibit such prioritization, and such prioritization is consistent with the CAA.'' RWA argues that, ''[c]onsidering the USF constitutes the source of much of ETCs' funding as opposed to non-ETCs, limiting those funds has significantly hampered the ability of many rural ETCs to maintain their networks.'' RWA asserts that ''the FCC already acknowledged the importance of ETC networks in its Second Report and Order as it agreed that ETCs should be allocated reimbursement funds first.'' Further, ''[i]f there is not enough funding to go around initially, the Commission must prioritize, and there are substantial public interest reasons for prioritizing ETCs over non-ETCs. Non-ETCs should still be reimbursed; it may just take longer.'' RWA also argues that ''[r]ural ETCs . . . are entirely dependent on [USF] program funding, in addition to business revenue from a sparse number of subscribers in high cost areas,'' and, unlike other carriers with access to additional sources of capital, ''a 20%–30% funding reduction would drive small and rural companies out of business.''

56. The Commission acknowledges that, in the *2020 Supply Chain Order,* the Commission used a similar justification to fund ETCs over non-ETCs. However, the Commission adopted that priority before Congress expressly provided its own prioritization scheme, in which it explicitly adopted a scheme that does not prioritize ETCs over all providers of advanced communications services with 2 million customers or fewer. While the CAA does not explicitly prohibit the Commission from including additional sub-prioritization categories, without express direction to further sub-prioritize the Commission concludes that doing so would frustrate its charge, from the Secure Networks Act, to ensure that Reimbursement Program funds are equitably distributed amongst all applications. As a result, the Commission adopts the paradigm advanced by Congress and will not prioritize funding to ETCs over non-ETCs. If available funding is insufficient to satisfy all requests in any individual category, the Commission will prorate the available funding equally across all requests in this category. The

Commission finds this scheme is most consistent with congressional intent and that it will allow, as Congress intended, all providers of advanced communications services to begin the necessary work of removing insecure communications equipment and services from their networks.

c. Decline To Prioritize Information Collection Participants

57. In choosing to adopt a pro-rata distribution method for the limited funds available in the Reimbursement Program, the Commission acknowledges a departure from earlier rules that prioritized non-ETCs who responded to the *2019 Information Collection Order.* The results of the information collection showed that ETCs with two million or fewer customers required $1.62 billion to remove and replace Huawei and ZTE equipment from their networks. This figure did not account for other providers of advanced communications service that may be eligible to participate in the Reimbursement Program. Non-ETCs who voluntarily submitted cost estimates to remove and replace Huawei and ZTE equipment in their networks estimated they would require approximately $200 million to do so. The total estimated amount needed to remove and replace Huawei and ZTE equipment from the networks of ETCs and non-ETCs who voluntarily submitted cost estimates is $1.837 billion, a figure closely aligned with the actual amount appropriated by Congress in the CAA.

58. In the *2020 Supply Chain Order,* the Commission prioritized non-ETCs who voluntarily submitted cost estimates over other non-ETC providers of advanced communications services. The Commission found that it would be ''inequitable'' to allow these providers to go without funding simply because ''the costs of non-participating non-ETCs were not reported and thus not considered.'' However, the CAA was enacted after the Commission adopted the *2020 Supply Chain Order,* and the Commission sought comment on whether the language in the CAA permitted it to adopt a preference to fund non-ETCs who responded to the *2019 Information Collection Order.* After reviewing the record, the Commission finds that the CAA does not require such a preference, and the Commission declines to implement one for the same reason that the Commission declines to prioritize ETCs or the replacement of core network equipment and services. Congress created a clear prioritization program that does not express a preference to fund non-ETCs who voluntarily submitted cost estimates over those that, for whatever reason, did not.

59. Mediacom ''*strongly* supports the Commission's proposed prioritization schedule'' in part because ''prioritizing non-ETCs that responded to the data collection over those that did not was arbitrary and unfair.'' Mediacom argues that many smaller providers, especially while dealing with the COVID–19 pandemic, ''simply did not have the resources necessary to evaluate their entire network and respond to what they understood was a *voluntary* data collection while still meeting customer demands.''

60. PTA–FLA and RWA assert that the Commission should maintain this preference for non-ETCs who submitted cost estimates as part of the information collection. PTA–FLA argues that ''Congress based its calculation of how much money to appropriate for the Reimbursement Program on the estimated expenses submitted by both ETCs and non-ETCs during the cost estimate process.'' PTA–FLA thus claims ETCs and non-ETCs should be prioritized for funding ''to the extent of the estimates they submitted last year.'' PTA–FLA argues that this prioritization would ''recognize[ ] the fundamental fairness of prioritizing funding to parties who went to the expense and effort of creating a solid record to support Congressional funding.'' If the appropriated funds were insufficient to meet the demand for these groups, ''all parties would have to seek additional funding from Congress to make up the difference.'' RWA claims that, ''once ETCs receive their funding allocations, non-ETCs who participated in the Commission's information collection process should be next in line to be allocated funds . . . .'' RWA asserts that the non-ETCs who voluntarily submitted cost estimates did so ''in reliance on the Commission's indication that non-ETC estimates would assist in soliciting Congressional funding.'' RWA argues the Commission should continue to prioritize these carriers who ''demonstrated candor before the Commission in presenting their costs, and most importantly, prioritized network security despite regulatory uncertainty.'' RWA proposes a new prioritization paradigm that allocates funds first to ETCs up to the original cost estimates, then to non-ETCs who submitted cost estimates up to those estimates, then to those providers who did not submit cost estimates. RWA's proposal would allow non-ETCs who participated in the information collection to receive funding allocations immediately after the Commission allocates funding to ETCs with two million or fewer customers.

61. The Commission rejects these arguments as inconsistent with its mandate to distribute Reimbursement Program funds equitably amongst all applications. Although the Commission appreciates the time and expense that non-ETCs undertook to prepare their voluntarily replies to the 2019 information collection, Congress created a scheme that declined to prioritize these carriers. The Commission must comply with the statute as written and decline to prioritize non-ETCs who voluntarily submitted cost estimates.

d. Decline To Prioritize Equipment Posing Elevated National Security Risks

62. In the *2021 Supply Chain Further Notice,* the Commission sought comment on whether to ''prioritiz[e], within each category, the removal and reimbursement of certain equipment or services at particular locations identified as posing an elevated national security risk by the Commission or other federal agencies or interagency bodies . . . .'' The Commission asked whether certain national security threats warranted swift action to remove and replace equipment and services at various locations around the country. The Commission also sought comment on whether national security concerns would justify the Commission prioritizing the removal and replacement of equipment and services at certain locations ahead of its prioritization in the CAA.

63. After reviewing the record, the Commission declines to adopt a prioritization for certain equipment and services at particular locations that may pose an elevated national security risk. The Commission does not find express support for such a prioritization in the CAA and, as PTA–FLA commented, ''if Congress had intended to prioritize the removal and reimbursement of certain equipment or services at particular locations . . . it would have said so rather than setting explicit priority categories . . . .'' USTelecom and Niki N. agree. USTelecom argues the Commission would ''clearly violate the CAA and frustrate the intent of Congress if, for any reason, it prioritizes any equipment or services in a lower priority category ahead of . . . a higher prioritization category.'' Niki N. contends that they do not ''believe the Commission should prioritize equipment and services at locations that pose a heightened national security risk in a lower priority category ahead of any equipment and services in a higher prioritization category.''

64. Just as the Commission declines to sub-prioritize other categories of carriers or equipment and services, the fact that the CAA itself does not expressly prohibit the Commission from including additional sub-prioritization categories for national security does not convince it that doing so is the correct policy decision. Instead, it could expressly frustrate the Secure Network Act's requirement that Reimbursement Program funds be equitably distributed amongst all applications. The Commission thus declines to prioritize equipment or services at particular locations or ahead of the prioritization levels defined by Congress.

*E. Definition of ''Provider of Advanced Communications Service''*

65. The Secure Networks Act directed the Commission to ''establish [the Reimbursement Program] . . . to make reimbursements to providers of advanced communications service to replace covered communications equipment or services.'' The Commission now adds a definition of ''provider of advanced communications service'' in its program rules to match the definition Congress enacted in the Secure Networks Act, as amended by the CAA. This definition will clarify which entities are eligible to participate in the Reimbursement Program.

66. In the Secure Networks Act, Congress defined ''provider of advanced communications service'' as ''a person who provides advanced communications service to United States customers.'' Congress defined ''advanced communications service'' as ''the meaning given the term 'advanced telecommunications capability' in section 706 of the Telecommunications Act of 1996 (Telecommunications Act).'' In the Telecommunications Act, ''advanced telecommunications capability'' means ''without regard to any transmission media or technology, . . . high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.''

67. The Commission has historically interpreted ''high-speed, switched, broadband telecommunications capability'' to include facilities-based providers, whether fixed or mobile, with a broadband connection to end users with at least 200 kbps in one direction. In the *2020 Supply Chain Order,* the Commission used this guidance to adopt a definition of ''advanced communications service'' for the Reimbursement Program. As a result, participation in the Reimbursement Program is limited to providers of ''high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection speeds of at least 200 kbps in either direction.'' The Commission also clarified that, ''for purposes of the Reimbursement Program, a school, library or health care provider, or consortium thereof, may also qualify as a provider of advanced communications service, and therefore be eligible to participate in the Reimbursement Program, if it provisions facilities-based broadband connections of at least 200 kbps in one direction to end users . . . .''

68. In the CAA, Congress amended its definition of ''provider of advanced communications service'' to specifically include ''accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband service as defined in section 27.4 of the Commission's rules,'' and ''health care providers and libraries providing advanced communications services.'' Accordingly, the Commission explicitly includes, in its definition of ''provider of advanced telecommunications service,'' ''accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband service as defined in Part 27, Subpart M of the Commission's rules,'' and ''health care providers and libraries providing advanced communications services.'' Such entities are thus eligible for participation in the Reimbursement Program, provided they comply with all other relevant requirements, and are included in the first prioritization category if they have fewer than two million customers. No commenters disagreed with this proposal, and Northern Michigan University comments that ''[it] support[s] the amendment to the CAA by Congress to include accredited public or private noncommercial educational institutions providing their own facilities-based educational broadband service.'' QCommunications, LLC also ''agrees, concurs and supports the Commission's proposal to . . . [r]edefine the term 'provider of advanced communications service,' adding: libraries, healthcare, [and] accredited noncommercial education . . . .''

69. The Commission also clarifies that it limits the term ''educational broadband service as defined in Part 27, Subpart M of the Commission's rules'' to solely reference licensees in the Commission's Educational Broadband Service (EBS). Commenters support this interpretation. For instance, Northern Michigan University argues that ''Congress's intent in the CAA is to allow EBS licensees who actively provide advanced communications services with the means to receive equipment replacement funds through the Supply Chain Reimbursement Program.'' USTelecom agrees that ''the definition of educational broadband service is limited, as indicated by the CAA unambiguously, to EBS licensees. The CAA derives its definition from 47 CFR 27.4 which includes the licensing requirement as part of the definition.'' The Commission agrees with these commenters that this limitation accurately reflects Congress's intent to limit participation in the Reimbursement Program to entities already licensed for certain frequency bands.

70. The Commission rejects USTelecom's position that ''[a]lthough it might be argued that an EBS licensee with fewer than 2 million 'customers' could be in category 1, it is apparent that such a result could not have been Congress's intent.'' USTelecom argues that all EBS licensees, even those with two million or fewer customers, should be prioritized after funding is distributed to all other advanced communications service providers with two million or fewer customers. This interpretation of the CAA is contrary to the plain language of the statute, which tasks the Commission with first funding all advanced communications service providers with two million or fewer customers, and defines ''providers of advanced communications service'' to include such EBS licensees. The Commission interprets the word ''all'' to include these EBS licensees who are otherwise eligible for participation in the Reimbursement Program, even if there currently exist no such providers who can claim more than two million customers.

71. The Commission does not expect the addition to the existing Reimbursement Program rules of a definition of ''provider of advanced communications service'' to have any practical effect on the number or type of carriers eligible to participate in the Reimbursement Program. The *2020 Supply Chain Order* already provided that ''accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband service as defined in section 27.4 of the Commission's rules,'' and ''health care providers and libraries providing advanced communications services'' would be eligible for participation.

Nevertheless, the Commission will amend its definition to explicitly include these providers.

72. The Secure Networks Act further limited eligibility in the Reimbursement Program to ''providers of advanced communications service . . . [with] . . . customers.'' The word ''customers'' is defined as either customers of the provider of advanced communications services or the customers of any affiliate of a providers of advanced communications service. LATAM claims that Congress, by expanding the definition of ''provider of advanced communications service'' in the CAA, intended to ''better capture all the networks that may be used for the provision of advanced communications services to consumers,'' including intermediate providers, who carry traffic for other carriers only, and neither originate nor terminate that traffic. It also argues that, from a policy perspective, ''it does not make sense to exclude intermediate providers from participation in the Reimbursement Program since the security concerns would be similar to providers of advanced communications services.''

73. The Commission agrees, but do not think its existing rules prohibit such intermediate providers from participation in the Reimbursement Program. Its existing definition did not limit eligibility to providers who offer service to end users. Rather, it extended eligibility to providers of ''high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection speeds of at least 200 kbps in either direction.'' Intermediate providers, such as LATAM, likely provide such a service to their customers, notwithstanding whether those customers are carrier customers or end-user customers. The Commission intends to include intermediate providers in the Reimbursement Program because, by doing so, the Commission can secure against ''potential vulnerabilities to the broader network.'' Its goal is to ensure the safety and security of the entire network, not only to those portions that provide service to end users. Thus, the Commission clarifies that intermediate providers are eligible for participation in the Reimbursement Program.

74. Finally, the Commission reiterates that the adopted changes to the definition of ''provider of advanced communication services'' apply only to the Reimbursement Program. The Commission does not amend the term as it is defined in any other section of its rules.

*F. Reimbursement Program Clarifications*

75. The Commission next clarifies various other aspects of the Reimbursement Program adopted in the *2020 Supply Chain Order.* Specifically, the Commission clarifies: (1) The ''costs reasonably incurred'' standard adopted for determining eligible reimbursement expenses with technology upgrades; (2) the initial application filing window; (3) the consideration of requests for individual extensions of the removal, replacement, and disposal term; (4) additional expectations for and obligations of Reimbursement Program participants regarding reimbursement claim requests and the filing of final spending reports and final certification updates; (5) the process by which to account for removal, replacement, and disposal of covered equipment and services; (6) parameters when accounting for reimbursement funds; and (7) delegation of financial oversight to the Office of the Managing Director (OMD).

76. *Costs Reasonably Incurred Standard—Technology Upgrades.* The Commission clarifies the ''costs reasonably incurred'' standard adopted in the *2020 Supply Chain Order* and provide additional guidance as to the types of replacement options that would be considered comparable facilities and technology upgrades. As adopted in the *2020 Supply Chain Order,* the Reimbursement Program will reimburse costs reasonably incurred for the removal, replacement, and disposal of covered communications equipment and services in accordance with the Secure Networks Act. In the *2020 Supply Chain Order,* the Commission considered as reasonable ''replacement facilities comparable to the facilities in use by the provider prior to the removal, replacement, and disposal of covered communications equipment or service.'' The Commission further acknowledged, however, that replacing older technology inevitably involves a certain amount of technology upgrade and as a result expressly allowed for the replacement of older mobile wireless networks with 4G LTE equipment or service that is 5G ready. The Commission cautioned, however, that providers electing '''to purchase optional equipment capability or make other upgrades' . . . must do so using their own funds.''

77. Providers considering replacement options have expressed interest in changing their technology path and have asked for clarification regarding what is considered comparable and eligible for reimbursement and what is considered a technology upgrade and ineligible for reimbursement. For example, providers may want to transition from older mobile wireless technologies to 5G or move from fixed wireless to fiber. The Commission therefore provides additional guidance on what is considered a technology upgrade, how to estimate cost for the Reimbursement Program for a technology upgrade, and how the Commission will allocate funding for such requests.

78. As a policy matter, the Commission encourages providers to upgrade their networks and to transition to efficient, scalable, and secure technology, thereby providing more choices and capabilities to end users. The Reimbursement Program is, however, limited in funding and focused on assisting ''small communications providers with the costs of removing prohibited equipment and services from their networks and replacing prohibited equipment with more secure communications equipment and services.'' Additionally, Congress specifically stated that the Commission is expected ''to preclude network upgrades that go beyond the replacement of covered communications equipment or services from eligibility.'' The Commission thus interprets the ''costs reasonably incurred'' standard to make providers responsible for the additional incremental cost of funding upgrades that exceed what is reasonably necessary to transition to a comparable replacement. That said, and as the Commission previously acknowledged, replacing older technology inevitably involves a certain level of upgrade as the equipment and services currently available in the marketplace typically contain features and capabilities not present in the legacy equipment and services no longer offered. Accordingly, a certain degree of upgrade may be entirely reasonable, and eligible for reimbursement, depending on the comparable replacements available in the marketplace. In particular, the Commission reiterates, as previously stated in the *2020 Supply Chain Order,* that 4G Long Term Evolution (LTE) network equipment or service, which would include VoLTE technology, would be treated as a comparable replacement for an older mobile wireless network for purposes of the Reimbursement Program.

79. Whether an upgrade is treated as a reasonable, comparable replacement necessary for the transition, and thus acceptable, or a technology upgrade ineligible for reimbursement will likely

depend on the facts in each case. The Commission expects the Wireline Competition Bureau, with the assistance of the Fund Administrator, will first consider whether the cost is typically incurred when transitioning from covered communications equipment and services to a replacement. Other factors the Wireline Competition Bureau and Fund Administrator may consider when determining whether a change is necessary, reasonable, and comparable are the costs in relation to alternative equipment and services and the capabilities and functions performed by the replacement equipment and services as compared to the equipment and services removed.

80. As a general matter, the Commission does not consider replacing microwave backhaul with fiber backhaul or replacing last-mile fixed wireless links with fiber-to-the-premises (FTTP) necessary for the removal, replacement, and disposal of such communications equipment or service produced or provided by Huawei and ZTE that is listed on the Covered List. The Rural Wireless Broadband Coalition states that higher-capacity fiber backhaul is needed to support the replacement of older technology networks with 5G ready equipment that is subsequently made 5G operable by a provider. Santel ''would like'' to replace its four transmitters with an FTTP wireline network serving 850 customers to provide a far better quality service that ''even exceeds 5G wireless solutions.'' In either case, the Commission fails to see how such expenses are reasonably necessary to the removal, replacement, and disposal of covered communications equipment or services eligible for reimbursement. Moreover, the cost of replacing microwave with fiber backhaul and fixed wireless links to end users with FTTP would likely greatly exceed the cost of other wireless alternatives. As the Commission stated in the C-Band proceeding, relocation support is not intended ''to provide a means of funding [an] incumbent['s] . . . transition to fiber'' and ''while a transition to fiber in some cases may be a more efficient or desirable approach for certain . . . operators, incumbents would only be reimbursed for the reasonable costs of relocating existing services. . . .'' This same rationale applies to the Reimbursement Program. Accordingly, the Commission will generally view fiber link replacements as a technology upgrade and not a reasonable, comparable replacement.

81. Participants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement. If, however, a participant ultimately decides to upgrade to a higher quality, more advanced, non-comparable replacement, then the program participant will bear the difference in cost between the comparable replacement and the technology upgrade solution chosen. When Reimbursement Program participants seek to replace eligible covered communications equipment or service with a technology upgrade in excess of the costs of a comparable replacement, they will need to provide price quotes for the comparable replacement with their Application Request for Funding Allocation and may not rely on the cost estimates contained in the Catalog of Eligible Expenses (Catalog). This approach is consistent with the Commission's treatment of situations where the estimated cost is not provided in the Catalog, and the applicant must provide additional documentation to support the identified cost estimate. They will also need to separately certify, as already required by the Commission's rules, that the estimated cost is made in good faith.

82. Price quotes will provide a more accurate estimation of costs for funding allocations than using the Catalog when participants request a technology upgrade and will help address concerns about inflated cost estimates and the over allocation of support. The Commission anticipates the Catalog largely reflects list prices, and not the amount providers will actually pay after any purchasing discounts are applied. While the Catalog reduces burdens for the applicant during the submission process, reliance on it in some circumstances could result in the overestimation of cost, and the over-allocation of support. Accordingly, to ensure more accurate cost estimates and to minimize the over-allocation of funding, the Commission clarifies that it will treat requests for reimbursement towards a technology upgrade as outside the scope of the Catalog. Applicants seeking support when completing a technology upgrade will need to provide their own cost estimates for a comparable replacement with price quotes.

83. *Costs Reasonably Incurred—Handset Upgrades.* The Commission rejects RWA's request that the Commission add VoLTE compatible replacement subscriber handsets to its Catalog and permit recipients of the Reimbursement Program to replace consumer handsets. RWA argues that the subscribers of some potential applicants of the Reimbursement Program have only CDMA-capable handset devices and those devices would need to be replaced because the handsets will not be compatible with a newer technology replacement network. RWA thus seeks reimbursement for the replacement cost of non-Huawei and ZTE handsets that will no longer be compatible with replacement networks. The Commission finds CDMA-capable handsets not produced or provided by Huawei or ZTE ineligible for reimbursement under the Reimbursement Program rules because replacing such handsets with VoLTE compatible subscriber handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service.

84. The Reimbursement Program has limited funding aimed at securing its nation's communication networks from national security threats. Expanding the scope of reimbursement eligibility to include subscriber mobile handheld devices not produced or provided by Huawei or ZTE threatens to detract substantial funding away from the core mission of securing the nation's networks. Handsets and other customer premises equipment, including Internet of Things devices, used by end users to access and utilize advanced communications services are distinctly different from the cell sites, backhaul, core network, etc. used to operate a network and provide advanced communications services. Consumers typically choose on their own to upgrade their mobile handsets every two years on average absent any network transition, and newer comparable replacement networks are often backward compatible with older technology handsets with some limited exceptions. Accordingly, the Commission finds the replacement of non-Huawei or ZTE mobile devices not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service. Additionally, without detailed information as to the handset models end users own, it is unclear whether a transition to a newer technology network will prevent those users from accessing the network. Similar to any network upgrade, the Commission anticipates providers will assist their customers with incompatible handsets to upgrade as necessary to mitigate any disruptions in service if for some reason their handsets are not compatible with the new network.

85. *Filing Window.* Consistent with the Secure Networks Act, the Commission established an application process for Reimbursement Program participation in the *2020 Supply Chain Order.* To participate in the

Reimbursement Program, eligible providers are required to submit initial estimates of the costs to be reasonably incurred for the removal, replacement, and disposal of covered communications equipment or services to participate in the Program. In the *2020 Supply Chain Order,* the Commission directed the Wireline Competition Bureau to establish an initial 30-day filing window for the submission of cost estimates and to establish additional filing windows as necessary. The accompanying rules adopted, however, do not specify a period of time for the filing window. Given the complexity of the Reimbursement Program, the Commission wants to ensure that applicants have sufficient opportunity to familiarize themselves with and utilize the application filing portal. Therefore, the Commission clarifies that the Wireline Competition Bureau has discretion to establish an initial filing window that provides sufficient time for applicants to submit cost estimates, which may be for a period longer than 30 days if a longer window is needed to help applicants navigate the application filing portal or to compile the necessary documentation required for the filing requirements.

86. *Individual Extensions.* The Commission further clarifies the factors the Wireline Competition Bureau, with the assistance of the Fund Administrator, will consider when evaluating whether to grant an individual extension of the removal, replacement, and disposal term available to program participants. Program participants are required to complete the removal, replacement and disposal of the equipment within one year of the initial disbursement. Its rules permit participants to petition the Wireline Competition Bureau for an extension of the removal, replacement, and disposal term prior to the expiration of the term. The Wireline Competition Bureau will generally review such requests on a case-by-case basis, and may grant an extension for up to six months after finding that, due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term. The Wireline Competition Bureau may grant more than one extension request to a recipient if circumstances warrant.

87. The Commission acknowledges that there are circumstances that may increase the difficulty of a Reimbursement Program participant's ability to complete removal, replacement, and disposal within the one-year term. For example, the Commission understands that some replacement options, such as O–RAN or virtual RAN, may require additional time for system integration. For program participants choosing an O–RAN or virtual RAN replacement option, the Commission directs the Wireline Competition Bureau, when evaluating an extension request, to consider the high likelihood of additional time needed as a significant factor favoring an extension. Additionally, the Commission understands the concern some commenters raise regarding the availability of replacement technology and semiconductors. USTelecom requests that the Commission acknowledge that the current shortage of semiconductors could impact the availability of replacement equipment, thereby warranting a waiver. NTCA highlights delays in obtaining equipment that are impacting providers of all sizes, but especially smaller providers who are forced to further compete with larger operators for labor and equipment. The Commission agrees with these commenters and direct the Wireline Competition Bureau to consider limited availability of the replacement options as a factor for whether to grant an individual extension request, including impacts caused by a shortage of semiconductors. A commenter raised another potential factor that may delay completion within the one-year team. Union Telephone Company argues that providers of advanced communications service may need to modify or replace their outdated network infrastructure, including cellular towers, to comply with current structural standards, which will also require federal permitting approval. The Commission directs the Wireline Competition Bureau to consider delays in federal permitting as one potential factor to consider when reviewing requests for extensions of time.

88. Vantage Point Solutions also identifies possible delays caused by equipment availability, weather considerations for construction, and cash flow and replacement funding distribution timing that may specifically impact providers in Alaska. It asks the Commission to consider extensions of time for these providers to complete the removal, replacement, and disposal of covered equipment beyond the term set by the Reimbursement Program.

89. The Commission acknowledges that certain locations will have challenges meeting the term deadline due to weather or other issues. The Commission further recognizes that the claims raised by USTelecom and others regarding the availability of semiconductors are valid, and that certain situations may impact smaller or rural providers such that they are unable to meet the timing requirements for removal, replacement, and disposal through the Reimbursement Program. The examples included in this item are not an exhaustive list of factors that the Wireline Competition Bureau will consider in the event a provider files an individual extension request. The Commission directs the Wireline Competition Bureau to consider all factors included in an individual extension request when evaluating the request. Additionally, the Commission directs the Wireline Competition Bureau to review individual extension requests on a case-by-case basis. As the Commission found in the *2020 Supply Chain Order,* however, the Secure Networks Act authorizes the Commission to grant extensions of time to allow providers of advanced communications services to complete the removal, replacement, and disposal of covered communications equipment and services, either as a ''general'' six-month extension to all recipients of reimbursement funding, or as individual extensions on a case-by-case basis. In the event circumstances regarding the availability of equipment do not improve, or if there is sufficient justification to warrant an extension, such information may influence the Wireline Competition Bureau's consideration of a six-month extension, whether for all program participants or on an individual, case-by-case basis.

90. *General Extension.* The Secure Networks Act authorizes the Commission to grant a six-month extension of the removal, replacement, and disposal term deadline ''to all recipients of reimbursements . . . if the Commission finds that the supply of replacement communications equipment or services needed by the recipients to achieve the purposes of the [Reimbursement] Program are inadequate.'' Several commenters have recommended that the Commission proactively grant this six-month general extension immediately, citing supply chain and labor shortages and the potential non-availability of semiconductors due to the impacts of the COVID–19 pandemic and the increased demand for scarce resources driven by the requirement to remove, replace, and dispose of covered communications equipment and services. However, the Commission finds such requests to extend a deadline that is not yet established premature, and run counter to the intent of Congress of having a one-year removal, replacement, and disposal term.

Accordingly, the Commission rejects these requests.

91. *Removal, Replacement and Disposal Term—Reimbursement Claims.* The Commission clarifies that only reasonable expenses incurred before the expiration of the removal, replacement, and disposal term are eligible for reimbursement. Reimbursement Program participants have one year from the initial disbursement to complete the permanent removal, replacement, and disposal of covered communications equipment or services. As a result, program participants may only submit reimbursement claims for costs incurred within one year of the initial disbursement date. If a program participant requests, and the Wireline Competition Bureau grants, a term extension according to its rules, all reimbursement claims must cover eligible expenses incurred prior to the term end date as adjusted by the granted extension. Any expenses incurred after the term ends will be ineligible for reimbursement. Additionally, any expenses incurred while an individual extension request is pending will not be reimbursable if the request is ultimately denied and the expenses were incurred outside of the one-year term.

92. *Final Certification Update Timing.* Within 10 days following the expiration of the removal, replacement, and disposal term, Reimbursement Program recipients are required to file a final certification with the Commission indicating, among other things, whether or not the recipient has fully complied with all terms of program participation. Program participants stating in their final certification that they have not ''fully complied'' are then required by both the Secure Networks Act and the *2020 Supply Chain Order* to file an updated final certification ''when the recipient has fully complied.'' Both the Secure Networks Act and the *2020 Supply Chain Order* are silent as to a deadline for filing the final certification update.

93. Program participants are required to complete the permanent removal, replacement, and disposal of the equipment or services, and thus the terms of program participation, before the expiration of the removal, replacement, and disposal term. The Commission recognizes that unforeseen delays may extend the removal, replacement, and disposal process beyond the one-year term, and the Commission expects program participants who anticipate they will not complete removal, replacement, and disposal by the end of their term will request an individual extension from the Wireline Competition Bureau before the end of that term.

94. If a program participant fails to timely submit a final certification, the program participant may be subject to forfeitures as provided for under the Communications Act of 1934, as amended. Further, if a program participant files a final certification indicating that it has not ''fully complied'' with the terms of the program, but subsequently fails to file an updated final certification indicating full compliance within 60 days after the final certification deadline, the program participant may be subject to forfeitures as provided for under the Communications Act of 1934, as amended. Additionally, program participants found in violation of the Secure Networks Act, the Commission's rules implementing the statute, or the commitments made by the recipient in the application for reimbursement may be: (1) Required to repay reimbursement funds; (2) barred from further participation in the Reimbursement Program; (3) referred to all appropriate law enforcement agencies or officials for further action under applicable criminal and civil law; and (4) barred from participation in other programs of the Commission, including the Federal universal service support programs established under section 254 of the Communications Act of 1934, as amended. The aforementioned penalties are within the Commission's jurisdiction. The Commission notes that applicants that commit fraud may separately be subject to the False Claims Act or other legal action as provided by existing statutes.

95. *Final Spending Report Timing.* Under the Reimbursement Program rules, program recipients must file their final spending report after the final certification. The Commission was silent, however, as to the deadline for filing the final spending report. The Commission clarifies the timeframe and expect program participants to submit the final spending report no later than 60 days following the expiration of the program participant's reimbursement claim deadline. If a program participant has not submitted a final spending report within 60 days of the expiration of the reimbursement claim deadline, the matter may be referred to the Enforcement Bureau for further investigation.

96. *Accounting for Removal, Replacement, and Disposal of Covered Equipment.* Some program participants participating in other funding programs or subject to rate regulation could receive duplicate recovery for support received from the Reimbursement Program for network changes. As a result, the Commission clarifies provider requirements with respect to maintaining books of account using the Uniform System of Accounts contained in Part 32 of the Commission's rules (USOA carriers). To the extent a USOA carrier has purchased and installed covered equipment, that equipment should currently be recognized as an investment in the USOA carrier's telecommunications plant and subject to retirement and depreciation rules which require the carrier to establish estimated lives and ratable depreciation of the assets. Because the Commission is requiring recipients of reimbursement funds under the Reimbursement Program and ETCs receiving USF support to remove and replace from their network and operations environments equipment and services included on the Covered List, and as defined in the *2019 Supply Chain Order* or as designated pursuant to section 54.9 of the Commission's rules and in the *Designation Orders,* the Commission also must address the accounting treatment of USOA carriers' retirement of covered equipment.

97. To ensure consistent accounting treatment, and to prevent the removal, replacement, and disposal of covered equipment by USOA carriers from unduly depleting such carriers' depreciation reserve, such carriers may treat the removal, replacement and disposal of covered equipment as an ''extraordinary retirement,'' subject to the amortization schedule that the Commission provides below. For an event to be considered an extraordinary retirement, it must satisfy three requirements: (1) The impending retirement was not adequately considered in setting past depreciation rates; (2) the charging of the retirement against the reserve will unduly deplete that reserve; and (3) the retirement is unusual such that similar retirements are not likely to recur in the future.

98. The Commission finds that the first and third of these requirements are met for retirements made in accordance with the *2019 Supply Chain Order.* Carriers that purchased covered equipment could not have anticipated that the Commission and Congress would require retirement of covered equipment and that Congress would make reimbursement funds available to replace covered equipment. As a result, early retirements resulting from Commission and congressional action were not and could not have been considered in setting past depreciation rates. Furthermore, given the unusual circumstances that led to these retirements, it is highly unlikely that

similar retirements will occur again in the future.

99. Regarding the second prong, the question of whether charging a retirement against a particular carrier's reserve would unduly deplete that reserve is normally determined on a case-by-case basis. The retirements at issue here, however, are compulsory, and the Commission finds that conducting case-by-case reviews for each carrier would be unduly burdensome for the Commission and for the carriers, particularly given the critical importance of these retirements for ensuring the security of the nation's infrastructure. Accordingly, on its own motion, the Commission finds there is good cause to waive the second prong to allow a USOA carrier to treat the retirements required by this docket as extraordinary retirements. The Commission therefore establishes a uniform process for addressing significant reserve deficiencies.

100. As part of this process, the Commission directs USOA carriers that take advantage of the waiver to credit Account 3100, Accumulated Depreciation, and charge Account 1438, Deferred Maintenance, retirements and other deferred charges, with the unprovided-for loss in service value resulting from the actions the Commission has taken in this docket. The amount of the unprovided-for loss in service value is recorded in Account 1438 and shall be amortized to Account 6561, Depreciation expense—Telecommunications plant in service, or Account 6562, Depreciation expense—property held for future telecommunications use. This treatment will reflect the amortization of the amounts in Account 1438 as depreciation expenses, thereby allowing carriers to include those amounts in their revenue requirement.

101. The asset category for the type of equipment subject to removal, replacement, and disposal is largely circuit equipment, and has an expected life in the 10-year range. To mitigate the effects of any excess depletion in the depreciation expense, the Commission waives its rules to allow carriers to use the following amortization schedules for covered equipment they are required to retire. First, if the expected remaining service life of the covered equipment being retired is two years or less, a USOA carrier may amortize one-half of the balance from Account 1438 each of the next two years. Second, if the covered equipment being retired has an expected remaining service life of between three and five years, the USOA carrier may amortize one-third of the balance from Account 1438 each of the next three years. If the covered equipment being retired has an expected remaining service life of more than six years, the USOA carrier will may amortize one-fourth of the balance from Account 1438 each of the next four years.

102. *Accounting for Reimbursement.* The Reimbursement Program will reimburse providers for some or all of the costs of removal, replacement, and disposal of covered communications equipment or services. The Commission clarifies that, consistent with the limitation on reimbursements, USOA carriers should account for reimbursed amounts as contributions by crediting the asset account charged with the reimbursed amount of the plant or equipment. This accounting treatment is appropriate because the contributions are not investor-supplied funds and should not be accorded a return on investment. This approach also conforms with the treatment of contribution to capital addressed in section 32.2000(a)(2) of the Commission's rules, and is consistent with how the accounting was handled for support payments awarded in the 2012 BTOP/BIP stimulus funding.

103. *Delegation to the Office of the Managing Director.* In the *2020 Supply Chain Order,* the Commission directed OMD to develop a system to audit the Reimbursement Program. In this *Third Report and Order,* the Commission delegates financial oversight of the Reimbursement Program to the Commission's Office of the Managing Director and direct OMD to work in coordination with the Wireline Competition Bureau to ensure that all financial aspects of the program have adequate internal controls. These duties fall within OMD's current delegated authority to ensure that the Commission operates in accordance with federal financial statutes and guidance. Such financial oversight must be consistent with this *Third Report and Order* and the rules adopted in the *2020 Supply Chain Order.* OMD performs this role with respect to the Universal Service Administrative Company's administration of the Commission's Universal Service programs, the COVID–19 Telehealth program, and the Emergency Broadband Benefit Program, and the Commission anticipates that OMD will leverage existing policies and procedures, to the extent practicable and consistent with section 904, to ensure the efficient and effective management of the program. Finally, the Commission notes that OMD is required to consult with the Wireline Competition Bureau on any policy matters affecting the program, consistent with section 0.91(a) of the Commission's rules. OMD, in coordination with the Wireline Competition Bureau, may issue additional directions to Program Administrator Ernst and Young LLC (Ernst & Young) and program participants in furtherance of its responsibilities.

*G. Cost-Benefit Analysis*

104. Based on presently available information obtained from the 2019 information collection, the Commission estimated the cost of the removal, replacement, and disposal of Covered List equipment and services subject to the *Designation Orders* and the process set forth in the *2019 Supply Chain Order* to be $1.62 billion for ETCs with two million or fewer customers, and at least $1.837 billion for providers with 10 million or fewer customers. As the Commission recognized in the *Information Collection Results Public Notice,* there may be ''other providers of advanced communications [who] may not have participated in the information collection and yet still [are] eligible for reimbursement under the terms of [the Secure Networks] Act.'' Though Congress appropriated $1.895 billion to the Reimbursement Program in the CAA, it also expanded the eligibility criteria for participation in the Reimbursement Program. The Commission does not have cost estimates for the cost of the removal, replacement, and disposal of eligible equipment for the entire potential pool of eligible providers.

105. Nevertheless, this *Third Report and Order* implements requirements from the CAA, and the Commission has no discretion to ignore such congressional direction. The Commission also concludes that even if the total replacement cost exceeds the $1.837 billion reported by providers with 10 million or fewer customers, that cost will be far exceeded by the benefits obtained in addressing the important national security concerns posed by the equipment and services eligible for reimbursement. The $1.895 billion reimbursement appropriation suggests that Congress anticipated great costs and even greater benefits would be generated by the Secure Networks Act. As the Commission explained in the *2019 Supply Chain Order,* the benefits of removing covered equipment and services ''extend to [hard] to quantify matters, such as preventing untrustworthy elements in the communications network from impacting its nation's defense, public safety, and homeland security operations, its military readiness, and its critical infrastructure, let alone the

collateral damage such as loss of life that may occur with any mass disruption to its nation's communications networks.'' Any increasing costs due to the CAA's expansion of the eligibility criteria for participation in the Reimbursement Program will be exceeded by the benefits of removing, replacing, and disposing of even more insecure equipment and services from U.S. networks.

## III. Procedural Matters

106. *Paperwork Reduction Act of 1995 Analysis.* This document does not contain modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified 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).

107. *Final Regulatory Flexibility Analysis.* The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this *Third Report and Order* on small entities.

108. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Third Further Notice of Proposed Rulemaking (*2021 Supply Chain Further Notice*) in this proceeding. The Commission sought written comment on the proposals in the *2021 Supply Chain Further Notice,* including comment on the accompanying IRFA. The present Final Regulatory Flexibility Analysis (FRFA) addresses comments received on the IRFA and conforms to the RFA.

### *A. Need for, and Objectives of, the Rules*

109. As directed by the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act) and the Consolidated Appropriations Act, 2021 (CAA), and in light of increasing concern about ensuring communications supply chain integrity, and consistent with its obligation to be responsible stewards of the public funds used in Universal Service Fund (USF) programs, this *Third Report and Order* adopts rules to modify the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) according to sections 901 and 906 of the CAA.

110. Specifically, the Commission increases the eligibility cap to allow providers of advanced communications services with 10 million or fewer customers to participate in the Reimbursement Program. Additionally, the Commission modifies the equipment and services eligible for reimbursement through the Reimbursement Program and amends its rules to allow Reimbursement Fund participants to use such funds to remove, replace, or dispose of equipment or services from the Covered List that are defined in the *2019 Supply Chain Order* or subject to the *Designation Orders* and the process for designating companies that pose a national security threat to the integrity of communications networks or the communications supply chain, as set forth in the *2019 Supply Chain Order,* and were purchased, rented, leased, or otherwise obtained on or before June 30, 2020. The Commission also alters its prioritization scheme that will guide fund allocation if demand for reimbursement funds exceeds the $1.895 billion appropriated by Congress. The new prioritization scheme will first fund reimbursement claims from eligible providers with two million or fewer customers. Next, it will fund claims from approved applicants that are accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband services. Last, it will fund eligible providers with 10 million or fewer customers. The Commission also alters the definition of ''provider of advanced communications services'' to mirror the definition provided in the CAA. Finally, the Commission clarifies (1) the ''costs reasonably incurred'' standard adopted for determining eligible reimbursement expenses with technology upgrades; (2) the initial application filing window; (3) the consideration of requests for individual extensions of the removal, replacement, and disposal term; (4) additional expectations for and obligations of Reimbursement Program participants regarding reimbursement claim requests and the filing of final spending reports and final certification updates; (5) the process by which to account for removal, replacement, and disposal of covered equipment and services; (6) parameters when accounting for reimbursement funds; and (7) delegation of financial oversight to the Office of the Managing Director (OMD).

### *B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

111. No comments were filed in response to the IRFAs. However, parties did file comments addressing the impact of some proposals on small entities.

112. The Competitive Carriers Association supports the Commission's adoption of the prioritization scheme expressly provided for in the CAA. CCA argued that ''[t]hose provider with 2 million or fewer customers include the small and rural carriers that serve some of the most remote and expensive areas of the country and are bridging the digital divide by bringing service to places where there would not be a business case to offer service absent support . . . . Loss of funding would have an immediate and detrimental effect on the carriers' ability to provide services and, thus, access to rural America.'' Mediacom supports the Commission's new prioritization schedule because ''those providers need the greatest assistance because they have more limited resources.'' NTCA agrees, writing that ''[s]maller providers already operate on razor thin margins; adding the financial cost of replacing existing equipment outside of its normal upgrade cycle or losing universal service funding would be a crushing burden.'' While some commenters quibble about additional prioritization categories, there is broad support in the record for offering first priority to Reimbursement Program funding to those providers with two million or fewer customers. The Commission agrees and finds that its new prioritization paradigm will target those smaller providers who are most affected by any remove-and-replace requirement.

113. Northern Michigan University (NMU) supports the Commission's decision to ''modify the acceptable use of reimbursement funds for the removal, replacement, and disposal of covered equipment obtained prior to July 1, 2020 . . . .'' NMU writes that ''[m]oving the eligible replacement equipment date to June 30, 2020 accounts for the additional expenses providers have incurred in maintaining robust internet services to customers and ensures that these systems will be replaced with more modern, secure facilities.'' NMU also believes that this action will help smaller providers who ''often lack the cash reserves typically required for large construction projects. In the case of Supply Chain wholesale equipment replacement, portions of systems

deemed ineligible for replacement funds may delay their replacement until the required finances are available.'' Mark Twain Communications Company also supports this action because ''the costs associated with the replacement of existing networks equipment which in the future is determined to violate the proposed rule imposes a significant and unreasonable financial burden on rural telecommunications companies.''

*C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

114. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

115. The Chief Counsel did not file any comments in response to this proceeding.

*D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

116. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted pursuant to the *Third Report and Order.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

117. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Its actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

118. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

119. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

120. Small entities potentially affected by the rules herein include eligible schools and libraries, eligible rural non-profit and public health care providers, and the eligible service providers offering them services, including telecommunications service providers, internet Service Providers (ISPs), and vendors of the services and equipment used for telecommunications and broadband networks.

1. Schools and Libraries

121. As noted, ''small entity'' includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally ''a non-profit institutional day or residential school, that provides elementary education, as determined under state law.'' A secondary school is generally defined as ''a non-profit institutional day or residential school . . . , that provides secondary education, as determined under state law,'' and not offering education beyond grade 12. A library includes ''(1) [a] public library; (2) [a] public elementary school or secondary school library; (3) [a]n academic library; (4) [a] research library . . . ; and (5) [a] private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.'' For-profit schools and libraries, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools having $12 million or less in annual receipts, and libraries having $16.5 million or less in annual receipts, as small entities. In funding year 2007, approximately 105,500 schools and 10,950 libraries received funding under the schools and libraries universal service mechanism. Although the Commission is unable to estimate with precision the number of these entities that would qualify as small entities under SBA's size standard, the Commission estimates that fewer than 105,500 schools and 10,950 libraries might be affected annually by its action, under current operation of the program.

2. Healthcare Providers

122. *Offices of Physicians (except Mental Health Specialists).* This U.S. industry comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of general or specialized medicine (except psychiatry or psychoanalysis) or surgery. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has created a size standard for this industry, which is annual receipts of $12 million or less. According to 2012 U.S. Economic Census, 152,468 firms operated throughout the entire year in this industry. Of that number, 147,718 had annual receipts of less than $10 million, while 3,108 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms operating in this industry are small under the applicable size standard.

123. *Offices of Physicians, Mental Health Specialists.* This U.S. industry

comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of psychiatry or psychoanalysis. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for businesses in this industry, which is annual receipts of $12 million dollars or less. The 2012 U.S. Economic Census indicates that 8,809 firms operated throughout the entire year in this industry. Of that number 8,791 had annual receipts of less than $10 million, while 13 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small under the applicable standard.

124. *Offices of Dentists.* This U.S. industry comprises establishments of health practitioners having the degree of D.M.D. (Doctor of Dental Medicine), D.D.S. (Doctor of Dental Surgery), or D.D.Sc. (Doctor of Dental Science) primarily engaged in the independent practice of general or specialized dentistry or dental surgery. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. They can provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry. The SBA has established a size standard for that industry of annual receipts of $8 million or less. The 2012 U.S. Economic Census indicates that 115,268 firms operated in the dental industry throughout the entire year. Of that number 114,417 had annual receipts of less than $5 million, while 651 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of business in the dental industry are small under the applicable standard.

125. *Offices of Chiropractors.* This U.S. industry comprises establishments of health practitioners having the degree of D.C. (Doctor of Chiropractic) primarily engaged in the independent practice of chiropractic. These practitioners provide diagnostic and therapeutic treatment of neuromusculoskeletal and related disorders through the manipulation and adjustment of the spinal column and extremities, and operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of $8 million or less. The 2012 U.S. Economic Census statistics show that in 2012, 33,940 firms operated throughout the entire year. Of that number 33,910 operated with annual receipts of less than $5 million per year, while 26 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of chiropractors are small.

126. *Offices of Optometrists.* This U.S. industry comprises establishments of health practitioners having the degree of O.D. (Doctor of Optometry) primarily engaged in the independent practice of optometry. These practitioners examine, diagnose, treat, and manage diseases and disorders of the visual system, the eye and associated structures as well as diagnose related systemic conditions. Offices of optometrists prescribe and/or provide eyeglasses, contact lenses, low vision aids, and vision therapy. They operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers, and may also provide the same services as opticians, such as selling and fitting prescription eyeglasses and contact lenses. The SBA has established a size standard for businesses operating in this industry, which is annual receipts of $8 million or less. The 2012 Economic Census indicates that 18,050 firms operated the entire year. Of that number, 17,951 had annual receipts of less than $5 million, while 70 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of optometrists in this industry are small.

127. *Offices of Mental Health Practitioners (except Physicians).* This U.S. industry comprises establishments of independent mental health practitioners (except physicians) primarily engaged in (1) the diagnosis and treatment of mental, emotional, and behavioral disorders and/or (2) the diagnosis and treatment of individual or group social dysfunction brought about by such causes as mental illness, alcohol and substance abuse, physical and emotional trauma, or stress. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has created a size standard for this industry, which is annual receipts of $8 million or less. The 2012 U.S. Economic Census indicates that 16,058 firms operated throughout the entire year. Of that number, 15,894 firms received annual receipts of less than $5 million, while 111 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of mental health practitioners who do not employ physicians are small.

128. *Offices of Physical, Occupational and Speech Therapists and Audiologists.* This U.S. industry comprises establishments of independent health practitioners primarily engaged in one of the following: (1) Providing physical therapy services to patients who have impairments, functional limitations, disabilities, or changes in physical functions and health status resulting from injury, disease or other causes, or who require prevention, wellness or fitness services; (2) planning and administering educational, recreational, and social activities designed to help patients or individuals with disabilities, regain physical or mental functioning or to adapt to their disabilities; and (3) diagnosing and treating speech, language, or hearing problems. These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of $8 million or less. The 2012 U.S. Economic Census indicates that 20,567 firms in this industry operated throughout the entire year. Of this number, 20,047 had annual receipts of less than $5 million, while 270 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a majority of businesses in this industry are small.

129. *Offices of Podiatrists.* This U.S. industry comprises establishments of health practitioners having the degree of D.P.M. (Doctor of Podiatric Medicine) primarily engaged in the independent practice of podiatry. These practitioners diagnose and treat diseases and deformities of the foot and operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for businesses in this industry, which is annual receipts of $8 million or less. The 2012 U.S. Economic Census indicates that 7,569 podiatry firms operated throughout the entire year. Of that number, 7,545 firms had annual receipts of less than $5 million, while 22 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes that a

majority of firms in this industry are small.

130. *Offices of All Other Miscellaneous Health Practitioners.* This U.S. industry comprises establishments of independent health practitioners (except physicians; dentists; chiropractors; optometrists; mental health specialists; physical, occupational, and speech therapists; audiologists; and podiatrists). These practitioners operate private or group practices in their own offices (*e.g.,* centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers. The SBA has established a size standard for this industry, which is annual receipts of $8 million or less. The 2012 U.S. Economic Census indicates that 11,460 firms operated throughout the entire year. Of that number, 11,374 firms had annual receipts of less than $5 million, while 48 firms had annual receipts between $5 million and $9,999,999. Based on this data, the Commission concludes the majority of firms in this industry are small.

131. *Family Planning Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing a range of family planning services on an outpatient basis, such as contraceptive services, genetic and prenatal counseling, voluntary sterilization, and therapeutic and medically induced termination of pregnancy. The SBA has established a size standard for this industry, which is annual receipts of $12 million or less. The 2012 Economic Census indicates that 1,286 firms in this industry operated throughout the entire year. Of that number 1,237 had annual receipts of less than $10 million, while 36 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that the majority of firms in this industry is small.

132. *Outpatient Mental Health and Substance Abuse Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing outpatient services related to the diagnosis and treatment of mental health disorders and alcohol and other substance abuse. These establishments generally treat patients who do not require inpatient treatment. They may provide a counseling staff and information regarding a wide range of mental health and substance abuse issues and/or refer patients to more extensive treatment programs, if necessary. The SBA has established a size standard for this industry, which is $16.5 million or less in annual receipts. The 2012 U.S. Economic Census indicates that 4,446 firms operated throughout the entire year. Of that number, 4,069 had annual receipts of less than $10 million while 286 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

133. *HMO Medical Centers.* This U.S. industry comprises establishments with physicians and other medical staff primarily engaged in providing a range of outpatient medical services to the health maintenance organization (HMO) subscribers with a focus generally on primary health care. These establishments are owned by the HMO. Included in this industry are HMO establishments that both provide health care services and underwrite health and medical insurance policies. The SBA has established a size standard for this industry, which is $35 million or less in annual receipts. The 2012 U.S. Economic Census indicates that 14 firms in this industry operated throughout the entire year. Of that number, 5 firms had annual receipts of less than $25 million, while 1 firm had annual receipts between $25 million and $99,999,999. Based on this data, the Commission concludes that approximately one-third of the firms in this industry are small.

134. *Freestanding Ambulatory Surgical and Emergency Centers.* This U.S. industry comprises establishments with physicians and other medical staff primarily engaged in (1) providing surgical services (*e.g.,* orthoscopic and cataract surgery) on an outpatient basis or (2) providing emergency care services (*e.g.,* setting broken bones, treating lacerations, or tending to patients suffering injuries as a result of accidents, trauma, or medical conditions necessitating immediate medical care) on an outpatient basis. Outpatient surgical establishments have specialized facilities, such as operating and recovery rooms, and specialized equipment, such as anesthetic or X-ray equipment. The SBA has established a size standard for this industry, which is annual receipts of $16.5 million or less. The 2012 U.S. Economic Census indicates that 3,595 firms in this industry operated throughout the entire year. Of that number, 3,222 firms had annual receipts of less than $10 million, while 289 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

135. *All Other Outpatient Care Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing general or specialized outpatient care (except family planning centers, outpatient mental health and substance abuse centers, HMO medical centers, kidney dialysis centers, and freestanding ambulatory surgical and emergency centers). Centers or clinics of health practitioners with different degrees from more than one industry practicing within the same establishment (*i.e.,* Doctor of Medicine and Doctor of Dental Medicine) are included in this industry. The SBA has established a size standard for this industry, which is annual receipts of $22 million or less. The 2012 U.S. Economic Census indicates that 4,903 firms operated in this industry throughout the entire year. Of this number, 4,269 firms had annual receipts of less than $10 million, while 389 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

136. *Blood and Organ Banks.* This U.S. industry comprises establishments primarily engaged in collecting, storing, and distributing blood and blood products and storing and distributing body organs. The SBA has established a size standard for this industry, which is annual receipts of $35 million or less. The 2012 U.S. Economic Census indicates that 314 firms operated in this industry throughout the entire year. Of that number, 235 operated with annual receipts of less than $25 million, while 41 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that approximately three-quarters of firms that operate in this industry are small.

137. *All Other Miscellaneous Ambulatory Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing ambulatory health care services (except offices of physicians, dentists, and other health practitioners; outpatient care centers; medical and diagnostic laboratories; home health care providers; ambulances; and blood and organ banks). The SBA has established a size standard for this industry, which is annual receipts of $16.5 million or less. The 2012 U.S. Economic Census indicates that 2,429 firms operated in this industry throughout the entire year. Of that number, 2,318 had annual receipts of less than $10 million, while 56 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of the firms in this industry is small.

138. *Medical Laboratories.* This U.S. industry comprises establishments

known as medical laboratories primarily engaged in providing analytic or diagnostic services, including body fluid analysis, generally to the medical profession or to the patient on referral from a health practitioner. The SBA has established a size standard for this industry, which is annual receipts of $35 million or less. The 2012 U.S. Economic Census indicates that 2,599 firms operated in this industry throughout the entire year. Of this number, 2,465 had annual receipts of less than $25 million, while 60 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that a majority of firms that operate in this industry are small.

139. *Diagnostic Imaging Centers.* This U.S. industry comprises establishments known as diagnostic imaging centers primarily engaged in producing images of the patient generally on referral from a health practitioner. The SBA has established size standard for this industry, which is annual receipts of $16.5 million or less. The 2012 U.S. Economic Census indicates that 4,209 firms operated in this industry throughout the entire year. Of that number, 3,876 firms had annual receipts of less than $10 million, while 228 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms that operate in this industry are small.

140. *Home Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing skilled nursing services in the home, along with a range of the following: Personal care services; homemaker and companion services; physical therapy; medical social services; medications; medical equipment and supplies; counseling; 24-hour home care; occupation and vocational therapy; dietary and nutritional services; speech therapy; audiology; and high-tech care, such as intravenous therapy. The SBA has established a size standard for this industry, which is annual receipts of $16.5 million or less. The 2012 U.S. Economic Census indicates that 17,770 firms operated in this industry throughout the entire year. Of that number, 16,822 had annual receipts of less than $10 million, while 590 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms that operate in this industry are small.

141. *Ambulance Services.* This U.S. industry comprises establishments primarily engaged in providing transportation of patients by ground or air, along with medical care. These services are often provided during a medical emergency but are not restricted to emergencies. The vehicles are equipped with lifesaving equipment operated by medically trained personnel. The SBA has established a size standard for this industry, which is annual receipts of $16.5 million or less. The 2012 U.S. Economic Census indicates that 2,984 firms operated in this industry throughout the entire year. Of that number, 2,926 had annual receipts of less than $15 million, while 133 firms had annual receipts between $10 million and $24,999,999. Based on this data, the Commission concludes that a majority of firms in this industry is small.

142. *Kidney Dialysis Centers.* This U.S. industry comprises establishments with medical staff primarily engaged in providing outpatient kidney or renal dialysis services. The SBA has established assize standard for this industry, which is annual receipts of $41.5 million or less. The 2012 U.S. Economic Census indicates that 396 firms operated in this industry throughout the entire year. Of that number, 379 had annual receipts of less than $25 million, while 7 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

143. *General Medical and Surgical Hospitals.* This U.S. industry comprises establishments known and licensed as general medical and surgical hospitals primarily engaged in providing diagnostic and medical treatment (both surgical and nonsurgical) to inpatients with any of a wide variety of medical conditions. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. These hospitals have an organized staff of physicians and other medical staff to provide patient care services. These establishments usually provide other services, such as outpatient services, anatomical pathology services, diagnostic X-ray services, clinical laboratory services, operating room services for a variety of procedures, and pharmacy services. The SBA has established a size standard for this industry, which is annual receipts of $41.5 million or less. The 2012 U.S. Economic Census indicates that 2,800 firms operated in this industry throughout the entire year. Of that number, 877 has annual receipts of less than $25 million, while 400 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that approximately one-quarter of firms in this industry are small.

144. *Psychiatric and Substance Abuse Hospitals.* This U.S. industry comprises establishments known and licensed as psychiatric and substance abuse hospitals primarily engaged in providing diagnostic, medical treatment, and monitoring services for inpatients who suffer from mental illness or substance abuse disorders. The treatment often requires an extended stay in the hospital. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. Psychiatric, psychological, and social work services are available at the facility. These hospitals usually provide other services, such as outpatient services, clinical laboratory services, diagnostic X-ray services, and electroencephalograph services. The SBA has established a size standard for this industry, which is annual receipts of $41.5 million or less. The 2012 U.S. Economic Census indicates that 404 firms operated in this industry throughout the entire year. Of that number, 185 had annual receipts of less than $25 million, while 107 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that more than one-half of the firms in this industry are small.

145. *Specialty (Except Psychiatric and Substance Abuse) Hospitals.* This U.S. industry consists of establishments known and licensed as specialty hospitals primarily engaged in providing diagnostic, and medical treatment to inpatients with a specific type of disease or medical condition (except psychiatric or substance abuse). Hospitals providing long-term care for the chronically ill and hospitals providing rehabilitation, restorative, and adjustive services to physically challenged or disabled people are included in this industry. These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements. They have an organized staff of physicians and other medical staff to provide patient care services. These hospitals may provide other services, such as outpatient services, diagnostic X-ray services, clinical laboratory services, operating room services, physical therapy services, educational and vocational services, and psychological and social work services. The SBA has established a size standard for this industry, which is annual

receipts of $41.5 million or less. The 2012 U.S. Economic Census indicates that 346 firms operated in this industry throughout the entire year. Of that number, 146 firms had annual receipts of less than $25 million, while 79 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that more than one-half of the firms in this industry are small.

146. *Emergency and Other Relief Services.* This industry comprises establishments primarily engaged in providing food, shelter, clothing, medical relief, resettlement, and counseling to victims of domestic or international disasters or conflicts (*e.g.,* wars). The SBA has established a size standard for this industry which is annual receipts of $35 million or less. The 2012 U.S. Economic Census indicates that 541 firms operated in this industry throughout the entire year. Of that number, 509 had annual receipts of less than $25 million, while 7 firms had annual receipts between $25 million and $49,999,999. Based on this data, the Commission concludes that a majority of firms in this industry are small.

3. Providers of Telecommunications and Other Services

a. Telecommunications Service Providers

147. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by its actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

148. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

149. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

150. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus under this size standard, the Commission estimates that the majority of firms in this industry are small entities. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of operator service providers are small entities.

151. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers. The SBA category of Telecommunications Resellers is the closest NAICs code category for local resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data from 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities.

152. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless

telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

153. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over internet protocol (VoIP) services; wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

154. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

155. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018, there are 265 Cellular licensees that will be affected by its actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

156. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees and 12 firms had 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that a majority of these entities can be considered small. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

157. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

158. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by its action can be considered small.

b. Internet Service Providers

159. *Internet Service Providers (Broadband).* Broadband internet service providers include wired (*e.g.,* cable, DSL) and VoIP service providers using their own operated wired

telecommunications infrastructure fall in the category of Wired Telecommunication Carriers. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, under this size standard the majority of firms in this industry can be considered small.

160. *Internet Service Providers (Non-Broadband).* internet access service providers such as Dial-up internet service providers, VoIP service providers using client-supplied telecommunications connections and internet service providers using client-supplied telecommunications connections (*e.g.,* dial-up ISPs) fall in the category of All Other Telecommunications. The SBA has developed a small business size standard for All Other Telecommunications which consists of all such firms with gross annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Consequently, under this size standard a majority of firms in this industry can be considered small.

c. Vendors and Equipment Manufacturers

161. *Vendors of Infrastructure Development or ''Network Buildout.''* The Commission has not developed a small business size standard specifically directed toward manufacturers of network facilities. There are two applicable SBA categories in which manufacturers of network facilities could fall and each have different size standards under the SBA rules. The SBA categories are ''Radio and Television Broadcasting and Wireless Communications Equipment'' with a size standard of 1,250 employees or less and ''Other Communications Equipment Manufacturing'' with a size standard of 750 employees or less.'' U.S. Census Bureau data for 2012 shows that for Radio and Television Broadcasting and Wireless Communications Equipment firms 841 establishments operated for the entire year. Of that number, 828 establishments operated with fewer than 1,000 employees, and 7 establishments operated with between 1,000 and 2,499 employees. For Other Communications Equipment Manufacturing, U.S. Census Bureau data for 2012, show that 383 establishments operated for the year. Of that number 379 operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, the Commission concludes that the majority of Vendors of Infrastructure Development or ''Network Buildout'' are small.

162. *Telephone Apparatus Manufacturing.* This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be stand-alone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless and wire telephones (except cellular), PBX equipment, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways. The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which consists of all such companies having 1,250 or fewer employees. U.S. Census Bureau data for 2012 show that there were 266 establishments that operated that year. Of this total, 262 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

163. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 or fewer employees. U.S. Census Bureau data for 2012 show that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

164. *Other Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment). Examples of such manufacturing include fire detection and alarm systems manufacturing, Intercom systems and equipment manufacturing, and signals (*e.g.,* highway, pedestrian, railway, traffic) manufacturing. The SBA has established a size standard for this industry as all such firms having 750 or fewer employees. U.S. Census Bureau data for 2012 shows that 383 establishments operated in that year. Of that number, 379 operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, the Commission concludes that the majority of Other Communications Equipment Manufacturers are small.

*E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

165. *Requirement to Remove and Replace Covered Equipment and Services.* The *Third Report and Order* increases the pool or participants in the Reimbursement Program from those providers of advanced communications services with two million or fewer customers to those with 10 million or fewer customers, but does not change any reporting requirements adopted in previous Commission orders.

*F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

166. The RFA requires an agency to describe the steps the agency has taken to minimize the significant economic impact on small entities of the final rule, consistent with the stated objectives of the applicable statutes, including a statement of the factual, policy, and legal reasons in support of the final rule, and why any significant alternatives to the rule considered by the agency and which affect the impact on small entities were rejected.

167. All of the rules in the *Third Report and Order* are adopted pursuant to statutory obligation under the CAA. However, where the Commission has discretion in its interpretation or implementation of the CAA provisions, or adopts rules pursuant to alternative

statutory authority, the scope of the rules is narrowly tailored so as to lessen the impact on small entities. The rules adopted in the *Third Report and Order* appropriately consider the burdens on smaller providers against the Commission's goal of protecting its communications networks and communications supply chain from communications equipment and services that pose a national security threat, while facilitating the transition to safer and more secure alternatives.

*G. Report to Congress*

168. The Commission will send a copy of the *Third Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Third Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Third Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

169. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Third Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

## IV. Ordering Clauses

170. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 201(b), 214, 254, 303(r), 403, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201(b), 214, 254, 303(r), 403, 503, sections 2, 3, 4, 5, 7 and 9 of the Secure Networks Act, 47 U.S.C. 1601, 1602, 1603, 1604, 1606, and 1608, Division N, Title IX, sections 901 and 906 of the Consolidated Appropriations Act, 2021, and sections 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1 and 1.412, this Third Report and Order *is adopted.*

171. *It is further ordere*d that Parts 1 and 54 of the Commission's rules *are amended* as set forth below.

172. *It is further ordered* that, pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this Third Report and Order *shall be effective* October 22, 2021.

173. *It is further ordered* that the Commission *shall send* a copy of this Third Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

174. *It is further ordered* that the Commission's Consumer and Governmental Affairs, Bureau, Reference Information Center, *shall send* a copy of this Third Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects**

*47 CFR Part 1*

Administrative practice and procedure, Communications, Communications equipment, Internet, Telecommunications.

*47 CFR Part 54*

Communications common carriers, Internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

**Final Rules**

For the reasons set forth above, part 1 of title 47 of the Code of Federal Regulations is amended as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

■ 2. Section 1.50004 is amended by:

■ a. Revising paragraphs (a) introductory text, (a)(1), (a)(2) (f) introductory text, (i)(1)(i), and (ii), and adding paragraph (q) to read as follows:

**§ 1.50004 Secure and Trusted Communications Networks Reimbursement Program.**

(a) *Eligibility.* Providers of advanced communications service with ten million or fewer customers are eligible to participate in the Reimbursement Program to reimburse such providers solely for costs reasonably incurred for the permanent replacement, removal, and disposal of covered communications equipment or services:

(1) As defined in the Report and Order of the Commission in the matter of Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs (FCC 19–121; WC Docket No. 18–89; adopted November 22, 2019 (in this section referred to as the 'Report and Order'); or

(2) As determined to be covered by both the process of the Report and Order and the Designation Orders of the Commission on June 30, 2020 (DA 20–690; PS Docket No. 19–351; adopted June 30, 2020) (DA 20–691; PS Docket No. 19–352; adopted June 30, 2020) (in this section collectively referred to as the 'Designation Orders');

* * * * *

(f) *Prioritization of Support.* The Wireline Competition Bureau shall issue funding allocations in accordance with this section after the close of a filing window. After a filing window closes, the Wireline Competition Bureau shall calculate the total demand for Reimbursement Program support submitted by all eligible providers during the filing window period. If the total demand received during the filing window exceeds the total funds available, then the Wireline Competition Bureau shall allocate the available funds consistent with the following priority schedule:

TABLE 1 TO PARAGRAPH (f)

| Prioritization schedule |
|---|
| **Priority 1** |
| Advanced communication service providers with 2 million or fewer customers. |
| **Priority 2** |
| Advanced communications service providers that are accredited public or private non-commercial educational institutions providing their own facilities-based educational broadband service, as defined in part 27, subpart M of title 47, Code of Federal Regulations, or any successor regulation and health care providers and libraries providing advanced communications service. |

TABLE 1 TO PARAGRAPH (f)—Continued

| Prioritization schedule |
| --- |
| **Priority 3** |
| Any remaining approved applicants determined to be eligible for reimbursement under the Program. |

* * * * *

(i) * * * (1) * * *

(i) on or after publication of the Report and Order; or

(ii) in the case of any covered communications equipment that only became covered pursuant to the Designation Orders, June 30, 2020; or

* * * * *

(q) *Provider of Advanced Communications Services.* For purposes of the Secure and Trusted Communications Networks Reimbursement Program, the term ''provider of advanced communications services'' is defined as:

(1) A person who provides advanced communications service to United States customers; and includes:

(A) Accredited public or private non-commercial educational institutions, providing their own facilities-based educational broadband service, as defined in 47 CFR part 27, subpart M, or any successor regulation; and

(B) Health care providers and libraries providing advanced communications service.

(2) [Reserved].

## PART 54—UNIVERSAL SERVICE

■ 3. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, and 1601–1609, unless otherwise noted.

■ 4. Section 54.11 is amended by revising paragraphs (b), (c), and (d) to read as follows:

* * * * *

(b) For the purposes of this section, covered communications equipment or services means any communications equipment or service that is on the Covered List maintained pursuant to § 1.50002 of this chapter, and:

(1) As defined in the Report and Order of the Commission in the matter of Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs (FCC 19–121; WC Docket No. 18–89; adopted November 22, 2019 (in this section referred to as the 'Report and Order'); or

(2) as determined to be covered by both the process of the Report and Order and the Designation Orders of the Commission on June 30, 2020 (DA 20–690; PS Docket No. 19–351; adopted June 30, 2020) (DA 20–691; PS Docket No. 19–352; adopted June 30, 2020) (in this section collectively referred to as the 'Designation Orders').

(c) The certification referenced in paragraph (a) of this section is required starting one year after the date the Commission releases a Public Notice announcing that applications are accepted for filing in the corresponding filing window of the Reimbursement Program per § 1.50004(b) for the removal, replacement, and disposal of associated covered communications equipment and services.

(d) Reimbursement Program recipients, as defined in § 1.50001(h) of this chapter, are not subject to paragraph (a) of this section until after the expiration of their corresponding removal, replacement, and disposal term per § 1.50004(h) of this chapter for associated covered communications equipment and services.

* * * * *

[FR Doc. 2021–17279 Filed 8–20–21; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 224

**[Docket No. 210817–0163; RTID 0648–XR117]**

### Endangered and Threatened Wildlife and Plants; Technical Corrections for the Bryde's Whale (Gulf of Mexico Subspecies)

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

**ACTION:** Direct final rule.

**SUMMARY:** We, the NMFS, announce the revised taxonomy and common name of *Balaenoptera edeni (unnamed subspecies;* Bryde's Whale—Gulf of Mexico subspecies) under the Endangered Species Act of 1973, as amended (ESA). We are revising the Enumeration of endangered marine and anadromous species for Bryde's Whale—Gulf of Mexico subspecies, to reflect the scientifically accepted taxonomy and nomenclature of this species. We revise the common name to Rice's whale, the scientific name to *Balaenoptera ricei,* and the description of the listed entity to entire species. The changes to the taxonomic classification and nomenclature do not affect the species' listing status under the ESA or any protections and requirements arising from its listing.

**DATES:** This rule is effective October 22, 2021 without further action, unless significant adverse comment is received by September 22, 2021. If significant adverse comments are received, the NMFS will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments, information, or data on this document, identified by NOAA–NMFS–2021–0078, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0078 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Marine Mammal Branch Chief, Protected Resources Division, Southeast Regional Office, NMFS Protected Resources Division, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent us from contacting you if we have difficulty retrieving your submission. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Barb Zoodsma, NMFS, Southeast Regional Office, (727) 824–5312; or Lisa Manning, NMFS, Office of Protected Resources (301) 427–8466.

**SUPPLEMENTARY INFORMATION:**

## Purpose of This Rule

The purpose of this direct final rule is to notify the public that we are revising the Enumeration of endangered marine and anadromous species (50 CFR 224.101(h)) to reflect the scientifically accepted taxonomy and nomenclature of one mammal species listed under section 4 of the ESA (16 U.S.C. 1531 *et seq.*), the mammal currently enumerated as Bryde's whale (Gulf of Mexico subspecies). The changes reflect the most recently accepted scientific name in accordance with 50 CFR 224.101(e).

We are publishing this rule as a direct final rule because this is a noncontroversial action that reflects decisions already taken in the scientific community, such that prior notice and an opportunity to comment is unnecessary. This rule does not change the listing status of the species under the ESA and does not alter any protections afforded the species or any other legal requirements arising from the species' listing under the ESA. This change should be undertaken in as timely a manner as possible. This rule will be effective, as published in this document on the effective date specified in **DATES**, unless we receive significant adverse comments on or before the comment due date specified in **DATES**. Significant adverse comments are comments that provide strong scientific justification as to why the taxonomic and nomenclature changes to the enumeration of the listed entity should not be adopted or why the rule should be changed. Please include sufficient scientific information with your comments that will allow us to verify the basis for any significant adverse comments.

If we receive significant adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date, and we will engage in notice and comment rulemaking under the applicable requirements of the Administrative Procedure Act to promulgate these changes to 50 CFR 224.101(h).

## Background

Under 50 CFR 224.101(e), we use the most recently accepted scientific name of any species that we have determined to be endangered or threatened under the ESA. The ESA likewise requires that listing decisions be based solely on the best scientific and commercial data available. 16 U.S.C. 1533(b)(1)(A). Using the best available scientific information, our direct final rule documents a change to the taxonomy and nomenclature of the Bryde's whale (Gulf of Mexico subspecies). These changes are supported by a study published in a peer-reviewed journal and independent acceptance by the Society for Marine Mammalogy Committee on Taxonomy. We revise the common name, scientific name, and description of the species listed under section 4 of the ESA (16 U.S.C. 1531 *et seq.*) as follows: Common name is Rice's whale, scientific name is *Balaenoptera ricei,* and description of the listed entity is the entire species. We make these changes to the Enumeration of endangered marine and anadromous species (50 CFR 224.101(h)) to reflect the most recently accepted scientific name in accordance with 50 CFR 224.101(e).

## Taxonomy Classification

*Balaenoptera ricei*

The scientific name change to *Balaenoptera ricei* (Rice's whale) from *Balaenoptera edeni* is supported by genetic and morphological evidence (Rosel *et al.,* 2021), which indicate that the Bryde's whale (Gulf of Mexico subspecies; referred to as Bryde's-like whales by Rosel *et al.,* 2021) are a previously unnamed species. Rosel *et al.* (2021) used molecular data from Bryde's-like whales in the Gulf of Mexico to better describe the relationship of this species to other whales in the genus *Balaenoptera.* Phylogenetic analysis identifies Bryde's-like whales from the Gulf of Mexico as a unique lineage separated from Bryde's whales (including subspecies thereof that are recognized by some researchers) and from the sei whale and Omura's whale (Rosel *et al.,* 2021). Following a stranding of an individual in 2019, Rosel *et al.* (2021) performed the first morphological examination of an intact specimen of Bryde's-like whale from the Gulf of Mexico. This morphological analysis revealed distinctions in bone form and structure between Bryde's-like whales from the Gulf of Mexico and other whales in the genus *Balaenoptera.* The morphological distinctions and degree of genetic divergence described are equivalent to or greater than levels of molecular and morphological divergence between other, sister *Balaenoptera* genera, and support divergence at the species level (Rosel *et al.,* 2021). A workshop on the taxonomy of cetaceans concluded that a single line of evidence (*e.g.,* genetic data or morphological data) was sufficient to delimit cetacean subspecies while two independent lines of evidence were necessary for delimiting species (Reeves *et al.,* 2004). Rosel *et al.* (2021) presented multiple lines of evidence (genetic data and morphological data) that indicate that the Bryde's-like whales in the Gulf of Mexico are a previously unnamed species. The Society for Marine Mammalogy's Taxonomy Committee evaluated the Rosel *et al.* (2021) paper and agreed with the findings. As a result, the Committee now recognizes the Bryde's whales in the Gulf of Mexico as a different species, Rice's whale, *Balaenoptera ricei.* The taxonomic change for Rice's whale is catalogued in ZooBank, the official register for the International Commission on Zoological Nomenclature, and has been added to the official list of marine mammal species and subspecies maintained bythe Society for Marine Mammalogy.

NMFS recognizes the taxonomic change and therefore is making technical revisions to 50 CFR 224.101(h) to reflect the best available scientific information about the listed species. Once the changes to 50 CFR 224.101(h) take effect, the taxonomic and nomenclature changes will be incorporated into all new NMFS publications pertaining to the species. This species will continue to be listed as endangered and is subject to the same protections as existed prior to these changes. No other aspect of the entry for this species in 50 CFR 224.101(h) will change as a result of this rule.

## Required Determinations

The Assistant Administrator for Fisheries finds that good cause exists to waive the requirement for prior notice and opportunity for public comment, pursuant to 5 U.S.C. 553(b)(B). Such procedures would be unnecessary as the taxonomic change made in this rule are technical and reflect decisions already taken in the scientific community. This rule does not change the listing status of the Rice's whale under the ESA, and therefore does not alter the legal protections afforded to the species or any other requirements arising from its listing under the ESA, or add any new requirements.

This action is not subject to review under Executive Order 12866. Because a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are inapplicable.

This final rule does not contain policies with federalism implications under Executive Order (E.O.) 13132. Policies that have federalism

implications refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that 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. This final rule does not have federalism implications; therefore, the agency did not follow the additional consultation procedures outlined in E.O. 13132.

This rule does not contain any collections of information that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

E.O. 12898 requires that Federal actions address environmental justice in the decision-making process. In particular, the environmental effects of the actions should not have a disproportionate effect on minority and low-income communities. This rule is not expected to have a disproportionate effect on minority populations or low-income populations.

This final rule makes taxonomic changes relative to a previous listing determination under the ESA to reflect the best available scientific information about the species' taxonomy and nomenclature. NMFS has concluded that National Environmental Policy Act (NEPA) does not apply to ESA listing actions, and we conclude that NEPA does not apply to this correction to the description and identification of the listed species to reflect the best available scientific information. (See NOAA Administrative Order 216–6A and the Companion Manual for NOAA Administrative Order 216–6A, regarding Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities).

## References Cited

Rosel, P.E., Wilcox, L.A., Yamada, T.K., Mullin, K.D. (2021). A new species of baleen whale (*Balaenoptera*) from the Gulf of Mexico, with a review of its geographic distribution. *Marine Mammal Science,* 1–34.

## List of Subjects in 50 CFR Part 224

Endangered and threatened species, Exports, Imports, Reporting and Recordkeeping requirements, Transportation.

Dated: August 18, 2021.

**Kelly Denit,**

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

For the reasons set out in the preamble, we amend part 224, subchapter C of chapter II, title 50 of the Code of Federal Regulations, as set forth below:

## PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 2. In § 224.101, in paragraph (h), under ''Marine Mammals,'' remove the entry for ''Whale, Bryde's (Gulf of Mexico subspecies)'' and add an entry for ''Whale, Rice's'' in alphabetical order.

The addition reads as follows:

### § 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

| Species [1] | | | Citation(s) for listing determination(s) | Critical habitat | ESA rules |
|---|---|---|---|---|---|
| Common name | Scientific name | Description of listed entity | | | |
| **Marine Mammals** | | | | | |
| * | * | * | * | * | * |
| Whale, Rice's | Balaenoptera ricei | Entire Species | 84 FR 15446, April 15, 2019. | NA | NA. |
| * | * | * | * | * | * |

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2021–17985 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 86, No. 160
Monday, August 23, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### 8 CFR Part 212

**[CIS No. 2696–21; DHS Docket No. USCIS–2021–0013]**

**RIN 1615–AC74**

## Public Charge Ground of Inadmissibility

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

**ACTION:** Advance notice of proposed rulemaking and notice of virtual public listening sessions.

**SUMMARY:** Under provisions of the Immigration and Nationality Act, the Department of Homeland Security (DHS) administers the public charge ground of inadmissibility as it pertains to applicants for admission and adjustment of status. DHS is publishing this advance notice of proposed rulemaking (ANPRM) to seek broad public feedback on the public charge ground of inadmissibility that will inform its development of a future regulatory proposal. DHS intends to propose a rule that will be fully consistent with law; that will reflect empirical evidence to the extent relevant and available; that will be clear, fair, and comprehensible for officers as well as for noncitizens and their families; that will lead to fair and consistent adjudications and thus avoid unequal treatment of the similarly situated; and that will not otherwise unduly impose barriers on noncitizens seeking admission to or adjustment of status in the United States. DHS also intends to ensure that its regulatory proposal does not cause undue fear among immigrant communities or present other obstacles to immigrants and their families accessing public services available to them, particularly in light of the COVID–19 pandemic and the resulting long-term public health and economic impacts in the United States. DHS welcomes input from individuals, organizations, government entities and agencies, and all other interested members of the public. Comments will be most helpful if they clearly identify the questions to which they are responding, offer concrete proposals, and/or articulate support or opposition to current or prior DHS public charge policies, and cite to relevant laws, regulations, data, and/or studies. DHS is also providing notice of public virtual listening sessions on the public charge ground of inadmissibility and this ANPRM.

**DATES:** Written comments and related material must be submitted on or before October 22, 2021.

Listening Sessions Dates and Themes: The virtual public listening sessions (which will be opportunities for the public to speak directly to DHS on the questions raised in this ANPRM) will be held on—

| Date/time | Theme |
|---|---|
| September 14, 2021 at 2:00 pm ET. | Listening Session for the General Public. |
| October 5, 2021 at 2:00 pm ET. | State, Territorial, Local, and Tribal Benefits Granting Agencies and Nonprofit Organizations Only. |

Registration to comment date: For an opportunity to provide oral comments during the virtual public listening sessions, you must register by 12:00 p.m. (noon) Eastern Time (ET) on the Sunday before the listening session in question. For registration instructions, see the Public Participation section below.

**ADDRESSES:** You may submit comments on this ANPRM, identified by DHS Docket No. USCIS–2021–0013, through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the website instructions for submitting comments.

Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or U.S. Citizenship and Immigration Services (USCIS) officials, will not be considered comments on the ANPRM and may not be considered by DHS in informing future rulemaking. Please note that DHS and USCIS cannot accept any comments that are hand-delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. USCIS is not accepting mailed comments. If you cannot submit your comment by using *https://www.regulations.gov,* please contact Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at (240) 721–3000 for alternate instructions.

**FOR FURTHER INFORMATION CONTACT:** Andrew Parker, Branch Chief, Residence and Admissibility Branch, Residence and Naturalization Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721–3000 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Table of Contents



### Table of Abbreviations

AFM—USCIS Adjudicator's Field Manual
ANPRM—Advance Notice of Proposed Rulemaking
BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—Department of Homeland Security
DOS—Department of State
DOJ—Department of Justice
FAM—Department of State Foreign Affairs Manual
HCV—Housing Choice Voucher
HSA—Homeland Security Act
IIRIRA—Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INA—Immigration and Nationality Act
INS—Immigration and Naturalization Service
IRCA—Immigration Reform and Control Act
LPR—Lawful Permanent Resident

NPRM—Notice of Proposed Rulemaking
PRWORA—Personal Responsibility and Work Opportunity Reconciliation Act of 1996
SNAP—Supplemental Nutrition Assistance Program
SSI—Supplemental Security Income
USCIS—U.S. Citizenship and Immigration Services

## I. Public Participation

DHS invites all interested parties to submit written data, views, comments, and arguments on all aspects of this ANPRM. Comments must be submitted in English, or an English translation must be provided. DHS welcomes comments on any aspects discussed in this ANPRM and has identified in Section ''III. Request for Information'' of this document the matters on which DHS will find public comments most helpful to its future rulemaking.

*Registration for listening sessions:* To register and receive information on how to attend the virtual public listening sessions, please go to: *https://www.uscis.gov/outreach/upcoming-national-engagements.*

*Instructions for comments:* All submissions may be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and may include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice available at *https://www.regulations.gov.*

*Docket:* For access to the docket and to read background documents or comments received, go to *https://www.regulations.gov,* referencing DHS Docket No. USCIS–2021–0013. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

## II. Background

### *A. Legal Authority*

The authority of the Secretary of Homeland Security (Secretary) for issuing regulations is found in various sections of the Immigration and Nationality Act (INA, 8 U.S.C. 1101 *et seq.*), and the Homeland Security Act of 2002 (HSA). [1] Section 102 of the HSA, 6 U.S.C. 112, and section 103 of the INA, 8 U.S.C. 1103, charge the Secretary with the administration and enforcement of the immigration laws of the United States. In addition to establishing the Secretary's general authority for the administration and enforcement of immigration laws, section 103 of the INA, 8 U.S.C. 1103, enumerates various related authorities, including the Secretary's authority to establish such regulations, prescribe such forms of bond, issue such instructions, and perform such other acts as the Secretary deems necessary for carrying out such authority.

Section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4), provides that an applicant for a visa, admission, or adjustment of status is inadmissible if he or she is likely at any time to become a public charge. The public charge ground of inadmissibility, therefore, applies to anyone applying for a visa to come to the United States temporarily or permanently, for admission to the United States, or for adjustment of status to that of a lawful permanent resident.[2] Some categories of noncitizens are exempt from the public charge inadmissibility ground, while others may apply for a waiver of the public charge inadmissibility ground.[3]

The INA does not define the term ''public charge.'' It does, however, specify that when determining whether a noncitizen is likely at any time to become a public charge, consular officers and immigration officers must, at a minimum, consider the noncitizen's age; health; family status; assets, resources, and financial status; and education and skills.[4] Additionally, section 212(a)(4)(B)(ii) of the INA, 8 U.S.C. 1182(a)(4)(B)(ii), permits the consular officer or the immigration officer to consider any Affidavit of Support Under Section 213A of the INA submitted on the applicant's behalf when determining whether the applicant is likely at any time to become a public charge.[5] Most noncitizens seeking family-based immigrant visas or adjustment of status, and some noncitizens seeking employment-based immigrant visas or adjustment of status, must submit a sufficient Affidavit of Support Under Section 213A of the INA in order to avoid being found inadmissible under section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4).[6]

In general, under section 213 of the INA, 8 U.S.C. 1183, the Secretary has the discretion to admit into the United States a noncitizen who is determined to be inadmissible based only on the public charge ground upon the giving of a suitable and proper bond or undertaking approved by the Secretary.[7] The purpose of issuing a public charge bond is to ensure that the noncitizen will not become a public charge in the future.[8] Since the introduction of the Affidavit of Support Under Section 213A of the INA, the use of public charge bonds has decreased, and USCIS does not currently administer a public charge bond process.[9]

Section 235 of the INA, 8 U.S.C. 1225, addresses the inspection of applicants for admission, including admissibility determinations of such applicants.

Section 245 of the INA, 8 U.S.C. 1255, generally establishes eligibility criteria for adjustment of status to that of a lawful permanent resident.

### *B. Regulatory History*

The public charge ground of inadmissibility has been the subject of numerous judicial and administrative decisions, as well as administrative guidance and regulations. On May 26, 1999, soon after enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which amended the public charge ground of inadmissibility,[10] INS issued Interim Field Guidance on Deportability and Inadmissibility on Public Charge Grounds (1999 Interim Field Guidance).[11] This guidance identified

[1] *See* Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 et seq. (Nov. 25, 2002).

[2] *See* INA section 212(a)(4), 8 U.S.C. 1182(a)(4).

[3] *See* INA section 245(j), 8 U.S.C. 1255(j); 8 CFR 245.11; INA section 245(h)(2)(B), 8 U.S.C. 1255(h)(2)(B); INA 212(d)(3)(A), 8 U.S.C. 1182(d)(3)(A).

[4] *See* INA section 212(a)(4)(B)(i), 8 U.S.C. 1182(a)(4)(B)(i).

[5] When required, the applicant must submit an Affidavit of Support Under Section 213A of the INA (Form I–864 or Form I–864EZ).

[6] *See* INA section 212(a)(4)(C), (D), 8 U.S.C. 1182(a)(4)(C), (D).

[7] *See* INA section 213, 8 U.S.C. 1183.

[8] *See Matter of Viado,* 19 I&N Dec. 252 (BIA 1985).

[9] *See* Adjudicator's Field Manual (AFM) Ch. 61.1(b), available at *https://www.uscis.gov/sites/default/files/document/policy-manual-afm/afm61-external.pdf* (last visited June 4, 2021).

[10] Public Law 104–208, div. C, 110 Stat 3009–546. DHS notes that a few months after IIRIRA was enacted, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, 11 Stat. 2105, which included a statement of national policy regarding immigration and welfare generally. The statement provides, among other things, that ''it continues to be the immigration policy of the United States that aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and the availability of public benefits not constitute an incentive for immigration to the United States.'' *See* 8 U.S.C. 1601.

[11] 64 FR 28689 (May 26, 1999). Due to a printing error, the **Federal Register** version of the field guidance appears to be dated ''March 26, 1999'' even though the guidance was actually signed May

how the agency would determine if a person is likely to become a public charge under section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4), for admission and adjustment of status purposes, and whether a person is deportable as a public charge under section 237(a)(5) of the INA, 8 U.S.C. 1227(a)(5). INS proposed promulgating these policies as regulations in a proposed rule issued on May 26, 1999, but no final rule was issued.[12] The Department of State (DOS) also issued a cable to its consular officers at that time implementing similar guidance for visa adjudications, and similarly updated its Foreign Affairs Manual (FAM).[13] Until 2019, INS and later, USCIS, followed the 1999 Interim Field Guidance in their adjudications. DOS followed its public charge guidance as set forth in the FAM.[14]

In August 2019, DHS issued a final rule titled *Inadmissibility on Public Charge Grounds* (2019 Final Rule).[15] The 2019 Final Rule redefined the term public charge to mean ''an alien who receives one or more public benefits, as defined in [the 2019 Final Rule], for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months).'' [16] It also defined the term public benefit to include cash assistance for income maintenance (other than tax credits), SNAP, most forms of Medicaid, Section 8 Housing Assistance under the Housing Choice Voucher (HCV) Program, Section 8 Project-Based Rental Assistance, and certain other forms of subsidized housing.[17] The applicability of some provisions of the 2019 Final Rule was limited in certain ways, including with respect to active duty military members and their spouses and children, and for children in certain contexts.[18]

The 2019 Final Rule also established an evidentiary framework for USCIS' consideration of public charge inadmissibility and explained how DHS would interpret the minimum statutory factors for determining whether, ''in the opinion of'' [19] the officer, a noncitizen is likely at any time to become a public charge. Specifically, for adjustment of status applications before USCIS, DHS created a new Declaration of Self-Sufficiency, Form I–944, that collected information from applicants relevant to the 2019 Final Rule's approach to the statutory factors.[20]

The 2019 Final Rule also revised DHS regulations governing the Secretary's discretion to accept a public charge bond under section 213 of the INA, 8 U.S.C. 1183, for those seeking adjustment of status.[21]

The 2019 Final Rule was preliminarily enjoined by U.S. district courts in the Southern District of New York, District of Maryland, Northern District of California, Eastern District of Washington, and Northern District of Illinois.[22] Following a series of stays of the preliminary injunctions,[23] DHS began applying the Final Rule on February 24, 2020. Since that time, preliminary injunctions against the Final Rule were affirmed by the Second, Seventh, and Ninth Circuit Courts of Appeals.[24] On November 2, 2020, the U.S. District Court for the Northern District of Illinois issued a Rule 54(b) judgment vacating the rule on the merits.[25] On November 3, 2020, the Seventh Circuit granted an administrative stay of the district court's judgment and, on November 19, 2020, the Seventh Circuit granted a stay pending appeal. On March 9, 2021, DHS moved to dismiss its appeal before the Seventh Circuit, the Seventh Circuit dismissed the appeal, and the Rule 54(b) judgment went into effect.

As a result of the judgment, DHS ceased to apply the 2019 Final Rule and instead reverted to the policy that was in effect prior to that rule, *i.e.,* the 1999 Interim Field Guidance. DHS also removed the regulatory text that DHS had promulgated in the 2019 Final Rule and that had been vacated by the district court, thereby restoring the regulatory text to appear as it did prior to the 2019 Final Rule's issuance.[26]

DHS notes that on February 2, 2021, President Biden issued Executive Order 14012, *Restoring Faith in Our Legal Immigration System and Strengthening Integration and Inclusion Efforts for New Americans.*[27] In the Executive Order, the President declared a national policy ''to ensure that our laws and policies encourage full participation by immigrants, including refugees, in our civic life; that immigration processes and other benefits are delivered effectively and efficiently; and that the Federal Government eliminates sources of fear and other barriers that prevent immigrants from accessing government services available to them.'' [28] The President also specifically directed a review of public charge policies by the Secretary of State, the Attorney General, and the Secretary of Homeland Security, in consultation with the heads of relevant agencies.

20, 1999, became effective May 21, 1999 and was published in the **Federal Register** on May 26, 1999.

[12] *See Inadmissibility and Deportability on Public Charge Grounds,* 64 FR 28676 (May 26, 1999).

[13] *See* 9 FAM 40.41.

[14] *See* 9 FAM 302.8–2(B)(2), Determining ''Totality of Circumstances,'' (g) Public Charge Bonds, *available at https://fam.state.gov/fam/09fam/09fam030208.html.* Note that on January 3, 2018, DOS amended its FAM guidance, which retained the definitions and framework from the prior guidance, but changed the manner in which DOS evaluated the Affidavit of Support Under Section 213A of the INA as well as how it considered the receipt of non-cash benefits by applicants, sponsors, and family members.

[15] *See* 84 FR 41292 (Aug. 14, 2019); *see also* 84 FR 52357 (Oct. 2, 2019) (making corrections). In October 2019, DOS issued a conforming rule. *See* 84 FR 54996 (Oct. 11, 2019).

[16] *See* 84 FR 41292 (Aug. 14, 2019).

[17] *See* 84 FR 41292 (Aug. 14, 2019).

[18] *See* 84 FR 41292 (Aug. 14, 2019). For example, under that rule, public benefits did not include benefits received by a person who, at the time of receipt, filing the application for admission or adjustment of status, or adjudication, was enlisted in the U.S. Armed Forces, serving in active duty or in the Ready Reserve component of the U.S. Armed Forces, or benefits received by the spouse or child of such a service member. Moreover, under that rule, public benefits did not include benefits received by children of U.S. citizens whose lawful admission for permanent residence would result in automatic acquisition of U.S. citizenship.

[19] *See* INA section 212(a)(4)(A), 8 U.S.C. 1182(a)(4)(A).

[20] The Declaration of Self-Sufficiency requirement only applied to adjustment of status applicants and not to applicants for admission at a port of entry.

[21] *See* 84 FR 41292 (Aug. 14, 2019). The 2019 Final Rule also contained provisions that would render certain nonimmigrants ineligible for extension of stay or change of status if they received one or more public benefits for more than 12 months in the aggregate within any 36-month period since obtaining the nonimmigrant status they sought to extend or change.

[22] *See City and Cnty. of San Francisco* v. *USCIS,* 408 F. Supp. 3d 1057 (N.D. Cal. 2019); *Cook County, Ill.* v. *McAleenan,* 417 F. Supp. 3d 1008 (N.D. Ill. 2019); *Casa de Md.* v. *Trump,* 414 F. Supp. 3d 760 (D. Md. 2019) *Make the Road New York* v. *Cuccinelli,* 419 F. Supp. 3d 647 (S.D.N.Y. 2019); *Wash.* v. *DHS,* 408 F. Supp. 3d 1191 (E.D. Wash. 2019).

[23] *See Wolf* v. *Cook County,* 140 S. Ct. 681 (2020) (staying preliminary injunction from the Northern District of Illinois); *DHS* v. *New York,* 140 S. Ct. 599 (2020) (staying preliminary injunctions from the Southern District of New York); *City and Cnty. of San Francisco* v. *USCIS,* 944 F.3d 773 (9th Cir. 2019) (staying preliminary injunctions from the Eastern District of Washington and Northern District of California); *CASA de Md.* v. *Trump,* No. 19–2222 (4th Cir. Dec. 9, 2019) (staying preliminary injunction from the District of Maryland).

[24] *See New York* v. *DHS,* 969 F.3d 42 (2d Cir. 2020); *Cook County, Ill.* v. *Wolf,* 962 F.3d 208 (7th Cir. 2020); *City and Cnty. of San Francisco* v. *USCIS,* 981 F.3d 742 (9th Cir. 2020); *see also Casa de Md.* v. *Trump,* 981 F.3d 311 (4th Cir. 2020) (granting *en banc* review and vacating a panel opinion that had reversed a preliminary injunction). In July 2020, the Southern District of New York issued a second preliminary injunction against the Final Rule for reasons related to the COVID–19 pandemic, which the Second Circuit later stayed. *See New York* v. *DHS,* 475 F. Supp. 3d 208 (S.D.N.Y. 2020), *injunction stayed,* 974 F.3d 210 (2d Cir. 2020).

[25] *See Cook County, Ill.* v. *Wolf,* No. 19–C–6334, 2020 WL 6393005 (N.D. Ill. Nov. 2, 2020).

[26] 86 FR 14221 (Mar. 15, 2021).

[27] 86 FR 8277 (Feb. 5, 2021).

[28] 86 FR 8277 (Feb. 5, 2021).

## III. Request for Information

DHS is publishing this ANPRM to seek broad public feedback on the public charge ground of inadmissibility that will inform DHS's consideration of further rulemaking action. DHS is in the process of preparing a regulatory proposal that will be fully consistent with law; that will reflect empirical evidence to the extent relevant and available; that carefully considers public comments; that will be clear, fair, and comprehensible for officers as well as for noncitizens and their families; that will lead to fair and consistent adjudications and thus avoid unequal treatment of similarly situated individuals; and that will not otherwise unduly impose barriers for noncitizens seeking admission or adjustment of status in the United States.[29] DHS also intends to ensure that any regulatory proposal does not unduly interfere with the receipt of public benefits by applicants and their families, particularly in light of the COVID–19 pandemic and the resulting long-term public health and economic impacts in the United States.[30]

DHS welcomes and will carefully consider public input on all aspects of public charge inadmissibility in its ongoing rulemaking efforts in this area, consistent with its broad authority to administer the U.S. immigration system. In addition to inviting written comments, DHS is providing the public with the opportunity to participate in virtual public listening sessions. For information about those sessions, please see the Public Participation and Dates sections of this document.

### *A. Purpose and Definition of Public Charge*

#### 1. Background

As noted, the INA does not define the term ''public charge,'' but specifies that consular and immigration officers must, at a minimum, consider the noncitizen's age; health; family status; assets, resources, and financial status; and education and skills when making public charge inadmissibility determinations.[31]

As part of this rulemaking, DHS expects to codify a definition of public charge that (1) is consistent with law; (2) is easily understood; (3) is straightforward to apply in a fair, consistent, and predictable manner; (4) reflects consideration of relevant national policies; and (5) will not unduly impose barriers for noncitizens seeking admission or adjustment of status in the United States.

#### 2. Questions for the Public

DHS welcomes public comment on all aspects of the topic described above, and would particularly benefit from commenters addressing one or more of the following questions, including the reasoning, data, and information behind their comments:

1. How should DHS define the term ''public charge''?

2. What data or evidence is available and relevant to how DHS should define the term ''public charge''?

3. How might DHS define the term ''public charge'', or otherwise draft its rule, so as to minimize confusion and uncertainty that could lead otherwise-eligible individuals to forgo the receipt of public benefits?

4. What national policies, including the policies referenced throughout this ANPRM, policies related to controlling paperwork burdens on the public, and policies related to promoting the public health and general well-being, should DHS consider when defining the term ''public charge'' and administering the statute more generally?

5. What potentially disproportionate negative impacts on underserved communities (*e.g.,* people of color, persons with disabilities) could arise from the definition of ''public charge'' and how could DHS avoid or mitigate them?

6. What tools and approaches can DHS use to ensure that future rulemaking is appropriately informed by available evidence? [32]

### *B. Prospective Nature of the Public Charge Inadmissibility Determination*

#### 1. Background

As noted in the 1999 Interim Field Guidance, the existing test for adjudicating public charge inadmissibility ''has been developed in several Service, BIA, and Attorney General decisions and has been codified in the Service regulations implementing the legalization provisions of the Immigration Reform and Control Act of 1986. These decisions and regulations, and section 212(a)(4) itself, create a 'totality of the circumstances' test.'' [33] The vacated 2019 Final Rule also required that the public charge inadmissibility determination ''be based on the totality of the alien's circumstances by weighing all factors that are relevant to whether the alien is more likely than not at any time in the future to receive one or more public benefits.'' [34] Under the vacated 2019 Final Rule, at a minimum, officers were to consider all of the mandatory factors set forth in the statute, as well as the noncitizen's prospective immigration status and expected period of admission, and (where applicable) a sufficient Affidavit of Support Under Section 213A of the INA.[35]

Through a future rulemaking, DHS may seek to clarify how officers should consider a noncitizen's past and present circumstances in determining the likelihood that they will become a public charge at any time in the future.

#### 2. Questions for the Public

DHS welcomes public comment on all aspects of the topic described above, but would particularly benefit from commenters addressing one or more of the following questions, including the reasoning, data, and information that inform their comments:

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[29] *See* Executive Order 14012 (Restoring Faith in Our Legal Immigration System and Strengthening Integration and Inclusion Efforts for New Americans), 86 FR 8277 (Feb. 5, 2021).

[30] *See, e.g.,* International Labor Organization, Food and Agricultural Organization of the United Nations, International Fund for Agricultural Development, and World Health Organization Joint Statement, ''Impact of COVID–19 on people's livelihoods, their health and our food systems'' (2020), *https://www.who.int/news/item/13-10-2020-impact-of-covid-19-on-people's-livelihoods-their-health-and-our-food-systems* (last visited Jul. 14, 2021); Pew Research Center, A Year Into the Pandemic, Long-Term Financial Impact Weighs Heavily on Many Americans (2021), *https://www.pewresearch.org/social-trends/wp-content/uploads/sites/3/2021/03/PSD_03.05.21.covid_.impact_fullreport.pdf* (last visited Jul. 14, 2021); Health Affairs, Spillover Effects of the COVID–19 Pandemic Could Drive Long-Term Health Consequences for Non-COVID–19 Patients (2020), *https://www.healthaffairs.org/do/10.1377/hblog20201020.566558/full/* (last visited Jul. 14, 2021).

[31] *See* INA section 212(a)(4)(B), 8 U.S.C. 1182(a)(4)(B).

[32] Consistent with Executive Orders 12866 and 13563, DHS is committed to evidence-based policymaking. DHS is aware of at least one recent attempt to use available data and machine-learning tools to estimate the probability of a noncitizen becoming a public charge (as that term was defined under the 2019 Final Rule). *See* Mitra Akhtari et al., *Estimating the Likelihood of Becoming a ''Public Charge,''* N.Y.U. J. Legis. & Pub. Pol'y Quorum (Aug. 2, 2021), *https://nyujlpp.org/quorum/estimating-the-empirical-likelihood-of-becoming-a-public-charge/* (accessed Aug. 4, 2021). DHS welcomes comments on the approach described in that paper; alternative approaches that may appropriately leverage available evidence and tools; and the potential implications of such approaches for this rulemaking.

[33] *See* 64 FR 28689, 28690 (May 26, 1999).

[34] *See* 84 FR 41292, 41502 (Aug. 14, 2019).

[35] *See* 84 FR 41292, 41423 (Aug. 14, 2019).

1. To the extent that DHS considers a noncitizen's past or current receipt of public benefits, for what period of time before the public charge inadmissibility determination should DHS consider the noncitizen's receipt of public benefits? Why is that time period relevant?

*C. Statutory Factors*

1. Background

Section 212(a)(4)(B) of the INA, 8 U.S.C. 1182(a)(4)(B), states that DHS must, at a minimum, consider the noncitizen's age; health; family status; assets, resources, and financial status; and education and skills.[36] DHS may also consider any Affidavit of Support under Section 213A of the INA, which is described below in Section D.[37]

In the 1999 Interim Field Guidance, the former INS noted that officers must consider the mandatory statutory factors, as well as any Affidavit of Support Under Section 213A of the INA submitted, and that ''[e]very denial order based on public charge must reflect consideration of each of these factors and specifically articulate the reasons for the officer's determination.'' [38] The guidance suggested that factors would be either positive or negative,[39] but did not explain what evidence officers should consider in evaluating these factors listed in section 212(a)(4)(B) of the INA, 8 U.S.C. 1182(a)(4)(B), or the weight to be given to a particular factor, in the totality of the circumstances.[40]

In the vacated 2019 Final Rule, DHS also required officers to consider the mandatory statutory factors, as well as a sufficient Affidavit of Support Under Section 213A of the INA, if submitted, in the totality of the circumstances, when assessing an applicant's likelihood of becoming a public charge at any time in the future.[41] That rule provided certain standards for officers to use in assessing each factor and also identified evidence that USCIS deemed relevant for the consideration of these factors.[42]

Through a future rulemaking, DHS may seek to clarify how officers should consider the statutory factors in making a public charge inadmissibility determination, as well as any other factors relevant to assessing an applicant's likelihood of becoming a public charge at any time.

2. Questions for the Public

DHS welcomes public comment on the topic described above, but would particularly benefit from commenters addressing one or more of the following questions including the reasoning, data, and information behind their comments:

1. Which factors (whether statutory factors or any other relevant factors identified by the commenter) are most predictive of whether a noncitizen is likely (or is not likely) to become a public charge? To the extent that data exist on this question, how can DHS use such data to improve public charge policymaking and adjudication?

2. How can DHS address the potential for perceived or actual unfairness or discrimination in public charge inadmissibility adjudications, whether due to cognitive, racial, or other biases; arbitrariness; variations in outcomes across cases with similar facts; or other reasons?

3. What kinds of tools (in regulation or policy guidance) could DHS provide to the public and adjudicators to make the totality of the circumstances determination more predictable and less subject to variation in different cases presenting similar facts?

4. Should DHS give any more or less consideration to any one or more of the statutory factors, the Affidavit of Support Under Section 213A of the INA, or any additional factors DHS may add through the rulemaking process in a public charge inadmissibility determination?

5. In the adjustment of status context, how should DHS request the necessary information to consider the mandatory statutory factors for each adjudication, without imposing undue paperwork burdens on the public and adjudicators?

a. Age

1. How should an applicant's age be considered as part of the public charge inadmissibility determination?

b. Health

1. How should DHS define health for the purposes of a public charge inadmissibility determination?

2. Should DHS consider disabilities and/or chronic health conditions as part of the health factor? If yes, how should DHS consider these conditions and why?

3. How should the Rehabilitation Act of 1973's prohibition of discrimination on the basis of disability be considered in DHS's analysis of the health factor? [43]

4. How should DHS consider the Report of Medical Examination and Vaccination Record, Form I–693, as part of the health factor?

5. Should DHS account for social determinants of health to avoid unintended disparate impacts on historically disadvantaged groups? If yes, how should DHS consider this limited access and why?

c. Family Status

1. How should DHS define and consider family status for the purposes of a public charge inadmissibility determination?

2. How should an applicant's household size be considered as part of the family status factor? What definition of an applicant's household size should DHS use for the public charge inadmissibility determination?

d. Assets, Resources, and Financial Status

1. What types of assets and resources are relevant to a public charge inadmissibility determination?

2. Whose assets and resources should be considered as part of this factor?

3. How should DHS define financial status for the purposes of a public charge inadmissibility determination?

4. How should DHS address the challenges faced by those not served by a bank or similar financial institution in demonstrating their assets, resources, and financial status?

5. Should DHS consider an applicant's financial obligations (such as child or spousal support), debt, or bankruptcy in a public charge inadmissibility determination? If yes, how should DHS consider an applicant's debt, bankruptcy, or financial obligations when evaluating an applicant's financial status and why?

6. Should DHS address its assessment of the relationship between the applicant's assets, resources, and financial status in the context of his or her particular circumstances (*e.g.,* costs of living in the applicant's geographic location) in its rulemaking? If yes, how so?

[36] *See* INA section 212(a)(4)(B)(i), 8 U.S.C. 1182(a)(4)(B)(i).

[37] *See* INA section 212(a)(4)(B)(ii), 8 U.S.C. 1182(a)(4)(B)(ii).

[38] *See* 64 FR 28689, 28689–90 (May 26, 1999).

[39] *See* 64 FR 28689, 28689–90 (May 26, 1999).

[40] *See* 64 FR 28689, 28689–90 (May 26, 1999). As explained more fully elsewhere in this document, the 1999 Interim Field Guidance included consideration of the past and present receipt of cash assistance for income maintenance and noted that less weight would be assigned the longer ago the benefits were received. 64 FR at 28690. The 1999 Interim Field Guidance also noted that applicants who received cash assistance for income maintenance could overcome such receipt by being employed full-time or having a sufficient Affidavit of Support Under Section 213A of the INA. 64 FR at 28690.

[41] *See* 84 FR 41307. As explained more fully elsewhere, the rule also required consideration of an additional factor not referenced in the statute.

[42] *See* 84 FR 41292 (Aug. 14, 2019).

[43] Note that under Executive Order 12250, DOJ is charged with coordinating the implementation and enforcement by Executive agencies of Section 504 of the Rehabilitation Act.

7. What data sources and criteria should DHS use to assess the sufficiency of the applicant's assets, resources, and financial status?

8. Should DHS consider the varied economic opportunities afforded to applicants to avoid unintended disparate impacts? If yes, how should DHS consider these limited opportunities and why?

e. Education and Skills

1. How should DHS consider an applicant's education and skills in making a public charge inadmissibility determination?

2. What education and skills should DHS consider in making a public charge inadmissibility determination?

3. Should DHS consider the varied access to educational opportunities afforded to applicants to avoid disparate impacts? If yes, how should DHS consider this limited access and why?

*D. Affidavit of Support Under Section 213A of the INA*

1. Background

Most family-based and some employment-based applicants for adjustment of status are required to submit an Affidavit of Support Under Section 213A of the INA, Form I–864 or Form I–864EZ, executed by a sponsor, which is usually the U.S. citizen or LPR who filed the immigrant visa petition on the adjustment applicant's behalf.[44] The absence of a sufficient Affidavit of Support Under Section 213A of the INA, where required, will result in a finding of inadmissibility under section 212(a)(4) of the INA, 8 U.S.C. 1182(a)(4), without consideration of the mandatory statutory factors.[45] Under section 212(a)(4)(B)(ii) of the INA, 8 U.S.C. 1182(a)(4)(B)(ii), DHS may consider a sufficient Affidavit of Support Under Section 213A of the INA [46] for the purposes of determining the applicant's likelihood of becoming a public charge at any time.

The 1999 Interim Field Guidance did not specifically address how officers should consider the Affidavit of Support Under Section 213A of the INA for the purposes of the totality of the circumstances determination as set forth in section 212(a)(4)(B)(ii) of the INA, 8 U.S.C. 1182(a)(4)(B)(ii), focusing instead on how a sponsor's receipt of means-tested public benefits was considered for the purposes of determining the sufficiency of the affidavit.[47] However, in the vacated 2019 Final Rule, DHS described how officers would consider a sufficient Affidavit of Support Under Section 213A of the INA.[48] In that rule, DHS provided that adjudicators would consider the likelihood that the sponsor would actually provide the statutorily required amount of financial support to the noncitizen as part of the totality of the circumstances determination.[49]

In a future rulemaking, DHS may seek to address the manner in which a sufficient Affidavit of Support Under Section 213A of the INA is considered as part of a public charge inadmissibility determination.

2. Questions for the Public

DHS welcomes public comment on all aspects of the topic described above, but would particularly benefit from commenters addressing one or more of the following questions, including the reasoning, data, and information behind their comments:

1. How should DHS consider a sufficient Affidavit of Support Under Section 213A of the INA in the public charge inadmissibility determination?

2. What weight should DHS give to a sufficient Affidavit of Support Under Section 213A of the INA in comparison to the mandatory statutory factors in the public charge inadmissibility determination?

*E. Other Factors To Consider*

1. Background

Section 212(a)(4)(B) of the INA, 8 U.S.C. 1182(a)(4)(B), states that DHS must, at minimum, consider the individual's age; health; family status; assets, resources, and financial status; and education and skills. DHS may also consider any Affidavit of Support Under Section 213A of the INA, which is described above in Section D. The statute's inclusion of the words ''at minimum'' suggests that other factors, beyond those listed and the Affidavit of Support Under Section 213A of the INA, may be considered when determining whether an individual is likely to become a public charge.

While the 1999 Interim Field Guidance suggests that there are other factors besides the mandatory factors and the Affidavit of Support Under Section 213A of the INA that are considered in the totality of the circumstances, that guidance did not specify or explain those other factors.[50] The vacated 2019 Final Rule, however, promulgated one additional factor apart from the factors set forth in section 212(a)(4)(B) of the INA, 8 U.S.C. 1182(a)(4)(B)—the noncitizen's prospective immigration status and expected period of admission.[51]

In a future rulemaking, DHS may seek to address whether there are factors other than those identified in section 212(a)(4)(B) of the INA, 8 U.S.C. 1184(a)(4)(B), that should be considered as part of a public charge inadmissibility determination.

2. Questions for the Public

DHS welcomes public comment on all aspects of the topic described above, but would particularly benefit from commenters addressing the following questions including the reasoning, data, and information behind their comments:

1. What other factors, if any, should DHS consider as part of the public charge inadmissibility determination and why?

2. How, if at all, should DHS account for the fact that there are differences in the duration of time noncitizens are authorized to stay in the United States, and that many noncitizens subject to the public charge ground of inadmissibility are expected to remain in the United States for only a brief period of time?

3. What data or evidence is available and relevant to the question above?

*F. Public Benefits Considered*

1. Background

The former INS, in the 1999 Interim Field Guidance, recognized a link between public charge and the receipt of public benefits by defining public charge in terms of primary dependence on the government for subsistence, and in directing officers to consider the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.[52] In tying the receipt of cash assistance for income maintenance to public charge, the former INS believed it would be able to ''identify those who are primarily dependent on the government for subsistence without inhibiting access to non-cash benefits that serve important public interests.'' [53] The former INS's focus on cash assistance for income maintenance reflected the determination

[44] *See* INA sections 212(a)(4)(C), (D) and 213A, 8 U.S.C. 1182(a)(4)(C) and (D).

[45] *See* INA sections 212(a)(4)(C), (D) and 213A, 8 U.S.C. 1182(a)(4)(C) and (D).

[46] A sufficient Affidavit of Support Under Section 213A of the INA is one in which the sponsor has demonstrated that he or she has enough income and/or assets to maintain the sponsored noncitizen and the rest of the sponsor's household at 125% of the Federal Poverty Guidelines (FPG) for that household size (or at 100 percent of the FPG if the sponsor is active duty in the U.S. Armed Forces or U.S. Coast Guard). *See* INA section 213A, 8 U.S.C. 1183a.

[47] *See* 64 FR 28689, 28693 (May 26, 1999).

[48] *See* 84 FR 41292, 41440 (Aug. 14, 2019).

[49] *See* 84 FR 41292, 41504 (Aug. 14, 2019).

[50] *See* 64 FR 28689, 28690 (May 26, 1999).

[51] *See* 84 FR 41292, 41423 (Aug. 14, 2019).

[52] *See* 64 FR 28689, 28692 (May 26, 1999).

[53] *See* 64 FR 28689, 28692 (May 26, 1999).

that receipt of benefits under these programs was more reflective of poverty or dependence, while such was not the case for most non-cash benefits, which (with the exception of institutionalization for long-term care at government expense) were not considered.[54] Finally, the former INS also tried to address the negative impacts on public health and general welfare caused by individuals forgoing the receipt of such non-cash benefits to avoid negative immigration consequences.[55]

In the vacated 2019 Final Rule, DHS also recognized a link between public charge and receipt of public benefits, but determined ''that neither the wording of section 212(a)(4) of the Act, 8 U.S.C. 1182(a)(4), nor case law examining public charge inadmissibility, mandates the 'primarily dependent' standard [set forth in the 1999 Interim Field Guidance] . . . .'' [56] Emphasizing the policy statements contained in PRWORA,[57] the vacated 2019 Final Rule expanded the types of public benefits considered as part of a public charge inadmissibility determination to include not only public cash assistance for income maintenance but also certain designated public non-cash benefits.[58]

In a future rulemaking, DHS may seek to clarify whether and which public benefits should be considered as part of a public charge inadmissibility determination.

2. Questions for the Public

DHS welcomes public comment on all aspects of the topic discussed above, but would particularly benefit from commenters addressing one or more of the following questions including the reasoning, data, and information behind their comments:

1. Should DHS consider the receipt of public benefits (past and/or current) in the public charge inadmissibility determination? If yes, how should DHS consider the receipt of public benefits and why?

2. Which public benefits should be considered as part of a public charge inadmissibility determination?

3. Which public benefits, if any, should not be considered as part of a public charge inadmissibility determination?

4. How should DHS address the possibility that individuals who are eligible for public benefits, including U.S. citizen relatives of noncitizens, would forgo the receipt of those benefits as a result of DHS's consideration of certain public benefits in the public charge inadmissibility determination? What data and information should DHS consider about the direct and indirect effects of past public charge policies in this regard?

*G. Previous Rulemaking Efforts*

1. Background

DHS and its predecessor, INS, engaged in two previous rulemaking efforts as discussed in greater detail above in Part II, Section C. On May 26, 1999, INS issued a NPRM, which proposed how the agency would determine if a noncitizen is likely at any time to become a public charge under section 212(a)(4) of the INA, 8 U.S.C. 1182(a), for admission and adjustment of status purposes, and whether a noncitizen in and admitted to the United States has become a public charge within 5 years after the date of entry for causes not affirmatively shown to have arisen since entry under section 237(a)(5) of the INA, 8 U.S.C. 1227(a)(5).[59] That NPRM, and the related 1999 Interim Field Guidance, provided a definition for public charge, specified the public benefits that would and would not be considered as part of a public charge determination, established a prospective totality of the circumstances framework that considered the factors set forth in section 212(a)(4)(B) of the INA, 8 U.S.C. 1182(a)(4)(B), and clarified how the Affidavit of Support Under Section 213A of the INA is used. INS and later DHS never finalized the 1999 NPRM.

On August 14, 2019, DHS issued a final rule addressing the public charge ground of inadmissibility.[60] The rule provided a new definition for public charge; specified the public benefits that would be considered as part of a public charge inadmissibility determination; established a prospective totality of the circumstances framework that required consideration of all of the factors set forth in section 212(a)(4)(B) of the INA, 8 U.S.C. 1182(a)(4)(B), as well as one additional factor; specified the standards and evidence that would be considered in the public charge inadmissibility determination; created a new Form I–944 for public charge inadmissibility determinations in the adjustment of status context; and changed the regulations for public charge bonds.[61]

2. Questions for the Public

DHS welcomes public comment on all aspects of the topic described above, but would particularly benefit from commenters addressing one or more of the following questions including the reasoning, data, and information behind their comments:

1. What aspects of the 1999 Interim Field Guidance, if any, should be included in a future public charge inadmissibility rulemaking and why?

2. What aspects of the 1999 NPRM, if any, should be included in a future public charge inadmissibility rulemaking and why?

3. What aspects of the vacated 2019 Final Rule, if any, should be included in a future public charge inadmissibility rulemaking and why?

4. What data are available to estimate any potential direct and indirect effects, economic or otherwise, of the public charge ground of inadmissibility, the 1999 Interim Field Guidance, or the vacated 2019 Final Rule? For instance, what data are available to estimate any potential direct and indirect effects, economic or otherwise, on individuals, social service organizations, hospitals, businesses, and other persons and entities?

*H. Bond and Bond Procedures*

1. Background

If a noncitizen is determined to be inadmissible based on the public charge ground, but is otherwise admissible, the person may be admitted in the discretion of the Secretary of Homeland Security upon the giving of a suitable and proper bond under section 213 of the INA, 8 U.S.C. 1183. That section authorizes the Secretary to establish the amount and conditions of such bond. Regulations implementing the public charge bond were promulgated in 1964 and 1966,[62] and are currently found at 8 CFR 103.6 and 8 CFR 213.1.

The 1999 Interim Field Guidance noted that the agency had the discretionary authority to offer public charge bonds, but did not otherwise explain the manner in which the agency would exercise that discretion.[63] In the vacated 2019 Final Rule, DHS established a framework to offer public charge bonds under section 213 of the

[54] *See* 64 FR 28689, 28692 (May 26, 1999).

[55] *See* 64 FR 28689, 28692 (May 26, 1999).

[56] *See* 84 FR 41292, 41349 (Aug. 14, 2019).

[57] *See* 8 U.S.C. 1601.

[58] *See* 84 FR 41292, 41439 (Aug. 14, 2019).

[59] *See Inadmissibility and Deportability on Public Charge Grounds,* 64 FR 28676 (May 26, 1999).

[60] *See* 84 FR 41292 (Aug. 14, 2019), as amended by *Inadmissibility on Public Charge Grounds; Correction,* 84 FR 52357 (Oct. 2, 2019).

[61] *See* 84 FR 41292 (Aug. 14, 2019), as amended by *Inadmissibility on Public Charge Grounds; Correction,* 84 FR 52357 (Oct. 2, 2019).

[62] *See Miscellaneous Amendments to Chapter,* 29 FR 10579 (July 30, 1964); *Miscellaneous Edits to Chapter,* 31 FR 11713 (Sept. 7, 1966).

[63] *See* 64 FR 28689, 28693 (May 26, 1999).

INA, 8 U.S.C. 1183, to adjustment of status applicants inadmissible only on the public charge ground, which included the minimum bond amount, conditions under which a bond was breached, and when a public charge bond would be cancelled.[64]

In a future rulemaking, DHS may seek to establish a public charge bond process.

2. Questions for the Public

DHS welcomes public comment on all aspects of the topic described above, but would particularly benefit from commenters addressing one or more of the following questions including the reasoning, data, and information behind their comments:

1. What standard should DHS use to determine whether to exercise its discretion and authorize a noncitizen inadmissible only under the public charge ground to submit a public charge bond?

2. Should DHS establish a minimum bond amount? If yes, how should DHS establish that minimum bond amount and how should DHS adjust that minimum bond amount over time?

3. What factors should DHS consider in establishing a bond amount for a particular inadmissible noncitizen?

4. Under what circumstances should DHS consider a public charge bond breached?

5. Under what circumstances should DHS consider a public charge bond cancelled?

*I. Specific Questions for State, Territorial, Local, and Tribal Benefit Granting Agencies and Nonprofit Organizations*

1. Background

DHS acknowledges that benefit granting agencies and nonprofit organizations may have valuable information and data regarding the receipt of public benefits and how benefit use intersects with the public charge ground of inadmissibility. DHS intends to formally consult with relevant Federal agencies, including benefits granting agencies, in connection with future rulemaking actions addressing the public charge ground of inadmissibility. As part of this ANPRM, DHS is specifically seeking feedback from state, territorial, local, and tribal benefit granting agencies, as well as nonprofit organizations.

2. Questions for State, Territorial, Local, and Tribal Benefit Granting Agencies and Nonprofit Organizations

DHS welcomes public comment on all aspects of the topic described above, but would particularly benefit from commenters addressing one or more of the following questions including the reasoning, data, and information behind their comments:

1. What costs, if any, has your agency or organization incurred in order to implement changes in public charge policy, such as revising enrollment procedures and public-facing materials? Please provide relevant data.

2. What costs, if any, has your agency or organization incurred as a result of reduction in enrollment, or disenrollment in public benefits programs generally? Please provide relevant data.

3. What costs, if any, has your agency or organization incurred as a result of disenrollment or reduction in enrollment in public benefits programs caused by the public charge ground of inadmissibility, the 1999 Interim Field Guidance, or the vacated 2019 Final Rule? Please provide relevant data.

4. With respect to the specific types of public benefits overseen by your agency, under what circumstances is the receipt of such benefits relevant, if at all, to assessing whether or not an individual is likely at any time to become a public charge?

5. What, if any, specific concerns does your agency or organization have about how DHS applies the public charge ground of inadmissibility and how should DHS address those concerns?

6. What data does your agency or organization have that can be shared to demonstrate any potential impact of the public charge ground of inadmissibility, the 1999 Interim Field Guidance, or the vacated 2019 Final Rule on applications for or disenrollment from public benefits by individuals who are eligible for such benefits?

7. What information, data, or studies does your agency or organization have that can be shared that would help DHS identify factors or patterns of benefit use (*e.g.,* duration, frequency, or extent of benefits use) that suggest whether and to what extent individuals would be likely to use public benefits in the future?

8. How should DHS reduce the possibility that individuals who are eligible for public benefits overseen by your agency would decide to forgo the receipt of those benefits out of concern that receipt of such benefits will make them (or a family member or household member) inadmissible on public charge grounds, even if receipt of such a benefit would not be considered by DHS in a public charge determination, or would not be a decisive factor in a public charge inadmissibility determination?

**Alejandro N. Mayorkas,**

*Secretary of Homeland Security.*

[FR Doc. 2021–17837 Filed 8–20–21; 8:45 am]

**BILLING CODE 9111–97–P**

[64] *See* 84 FR 41292, 41299 (Aug. 14, 2019).

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 51

**[NRC–2018–0300]**

**RIN 3150–AK54**

## Categorical Exclusions from Environmental Review

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Advance notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** On May 7, 2021, the U.S. Nuclear Regulatory Commission (NRC) requested public comment on an advance notice of proposed rulemaking to obtain input from stakeholders on the agency's plan to amend its regulations on categorical exclusions for licensing, regulatory, and administrative actions that individually or cumulatively do not have a significant effect on the human environment. The public comment period closed on July 21, 2021. The NRC has decided to reopen the public comment period until September 21, 2021, to allow more time for members of the public to develop and submit their comments.

**DATES:** The comment period for the advance notice of proposed rulemaking published on May 7, 2021 (86 FR 24514), is reopened and now closes on September 21, 2021. Comments received after this date will be considered, if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0300. 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 document.

- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

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

**FOR FURTHER INFORMATION CONTACT:** Gregory R. Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6445, email: *Gregory.Trussell@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2018–0300 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0300.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- Attention: The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

### *B. Submitting Comments*

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2018–0300 in your comment submission.

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

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

## II. Discussion

On May 7, 2021 (86 FR 24514), the NRC requested public comment on an advance notice of proposed rulemaking to obtain input from stakeholders on the agency's plan to amend its regulations on categorical exclusions for licensing, regulatory, and administrative actions that individually or cumulatively do not have a significant effect on the human environment. The NRC received a request to extend the comment period for the advance notice of proposed rulemaking. The comment period is reopened and now closes on September 21, 2021.

Dated: August 17, 2021.

For the Nuclear Regulatory Commission.

**Margaret M. Doane,**

*Executive Director for Operations.*

[FR Doc. 2021–18058 Filed 8–20–21; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0687; Project Identifier 2019–SW–029–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 certain Leonardo S.p.a. Model AW189 helicopters. This proposed AD was prompted by a report that a number of fairleads that support the engine combustion chamber D1 drain hose showed evidence of heat damage. This proposed AD would require modifying the helicopter by installing a certain engine combustion chamber D1 drain assembly, 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 October 7, 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 EASA 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 the EASA 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. This material is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0687.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0687; 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 EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4130; email *jacob.fitch@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–2021–0687; Project Identifier 2019–SW–029–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 Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4130; email *jacob.fitch@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.

## Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0039, dated February 20, 2019 (EASA AD 2019–0039), to correct an unsafe condition for certain Leonardo S.p.A. Model AW189 helicopters.

This proposed AD was prompted by a report that a number of fairleads that support the engine combustion chamber D1 drain hose showed evidence of heat damage. The FAA is proposing this AD to address heat damage, which in a case where the right-hand engine is operated in the one engine inoperative (OEI) rating, the D1 drain pipe could transfer so much heat to the nearby fuel system vent pipe that its internal surface temperature could exceed the auto-ignition temperature for fuel. The unsafe condition, if not addressed, could result in undetected fire ignition in the fuel tank bay with consequent loss of the helicopter. See EASA AD 2019–0039 for additional background information.

## Related Service Information Under 1 CFR Part 51

EASA AD 2019–0039 requires modifying the helicopter by installing the engine combustion chamber D1 drain assembly, part number 8G7170P00111.

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 helicopter has been approved by EASA and is 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 design.

## Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0039, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

## Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2019–0039 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0039 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 EASA AD 2019–0039 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 EASA AD 2019–0039. Service information required by EASA AD 2019–0039 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0687 after the FAA final rule is published.

## Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 4 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Modification | 4 work-hours × $85 per hour = $340 | $2,557 | $2,897 | $11,588 |

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all 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 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:

**Leonardo S.p.a.:** Docket No. FAA–2021–0687; Project Identifier 2019–SW–029–AD.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Leonardo S.p.a. Model AW189 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0039, dated February 20, 2019 (EASA AD 2019–0039).

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 7170, Engine Drains.

**(e) Unsafe Condition**

This AD was prompted by a report that a number of fairleads that support the engine combustion chamber D1 drain hose showed evidence of heat damage. The FAA is issuing this AD to address such heat damage, which in a case where the right-hand engine is operated in the one engine inoperative (OEI) rating, the D1 drain pipe could transfer so much heat to the nearby fuel system vent pipe that its internal surface temperature could exceed the auto-ignition temperature for fuel. The unsafe condition, if not addressed, could result in undetected fire ignition in the fuel tank bay with consequent loss of the helicopter.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0039.

**(h) Exceptions to EASA AD 2019–0039**

(1) Where EASA AD 2019–0039 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2019–0039 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where the service information required by EASA AD 2019–0039 specifies discarding parts, this AD requires removing those parts from service.

(4) This AD does not require the ''Remarks'' section of EASA AD 2019–0039.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2019–0039 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Special Flight Permit**

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the airplane can be modified, provided the OEI rating is prohibited on the right-hand engine.

**(k) 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 (l)(2) 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.

**(l) Related Information**

(1) For EASA AD 2019–0039, 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 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 at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0687.

(2) For more information about this AD, contact Jacob Fitch, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4130; email *jacob.fitch@faa.gov.*

Issued on August 17, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–17949 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2021–0691; Project Identifier MCAI–2020–01542–T]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc., Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by reports of erratic electrical system status on the push button annunciators (PBAs) and the engine instrument and crew alerting system (EICAS). This proposed AD would require revising the existing airplane flight manual (AFM) and applicable corresponding operational procedures to incorporate procedures to be applied during erroneous electrical status indication conditions. 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 October 7, 2021.

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

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

For service information identified in this NPRM, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0691; 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:** Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; 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–2021–0691; Project Identifier MCAI–2020–01542–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 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 Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7367; fax 516–794–5531; email *9-avs-nyaco-cos@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**

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–46, dated November 17, 2020 (TCCA AD CF–2020–46) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–100–1A10 airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0691.

This proposed AD was prompted by reports of erratic electrical system status on the PBA and the EICAS, while on-ground and during flight. Some of those incidents resulted in the airplane experiencing momentary loss of electrical power and loss of flight displays following flightcrew actions. The FAA is proposing this AD to address erroneous indications that could mislead pilots, causing them to turn off active electrical power sources, leading to partial or complete loss of electrical power. Loss of electrical power could result in the loss of flight displays and reduced controllability of the airplane. See the MCAI for additional background information.

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

Bombardier has issued the following sections of the applicable AFMs. This service information provides procedures to inform the pilots not to turn off active generators in the event of an erroneous electrical status indication.

- Section 03–19, Electrical, of Chapter 03, Emergency Procedures, of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 63, dated April 1, 2021. (For obtaining this section of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.)
- Section 05–19, Electrical, of Chapter 05, Non-Normal Procedures, of

the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 63, dated April 1, 2021. (For obtaining this section of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.)

- Section 03–19, Electrical, of Chapter 03, Emergency Procedures, of the Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 29, dated April 1, 2021.
- Section 05–19, Electrical, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 29, dated April 1, 2021.

These documents are distinct since they apply to different airplane configurations. 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.

**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 and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

**Proposed AD Requirements in This NPRM**

This proposed AD would require revising the existing AFM and applicable corresponding operational procedures to incorporate procedures to be applied during erroneous electrical status indication conditions.

**Explanation of Incorporating Information Specified in an AFM Revision**

This proposed AD would require including the information that is provided in the referenced AFM revisions in paragraph (g) of this proposed AD. The language in paragraph (g) of this proposed AD is designed to allow incorporating the specific information, regardless of the revision level of the AFM in use, provided the language is identical to the referenced AFM revisions specified in paragraph (g) of this proposed AD. The language in a later revision of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1 that is the same as the language in Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 63, dated April 1, 2021; or in a later revision of the Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM that is the same as the language in Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 29, dated April 1, 2021; may be incorporated.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 275 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 1 work-hour × $85 per hour = $85 | $0 | $85 | $23,375 |

**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:

**Bombardier, Inc.:** Docket No. FAA–2021–0691; Project Identifier MCAI–2020–01542–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, serial numbers 20003 and subsequent.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of erratic electrical system status on the push button annunciators (PBAs) and the engine instrument and crew alerting system (EICAS), while on-ground and during flight. The FAA is issuing this AD to address erroneous indications that could mislead pilots, causing them to turn off active electrical power sources, leading to partial or complete loss of electrical power. Loss of electrical power could result in the loss of flight displays and reduced controllability of the airplane.

**(f) Compliance**

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

**(g) Revision of the Airplane Flight Manual (AFM)**

Within 60 days after the effective date of this AD: Revise the Emergency Procedures and Non-Normal Procedures sections of the existing AFM and applicable corresponding operational procedures to include the information in Section 03–19, Electrical, of Chapter 03, Emergency Procedures, and Section 05–19, Electrical, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 63, dated April 1, 2021 (for airplanes having serial numbers 20003 through 20500 inclusive); or Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 29, dated April 1, 2021 (for airplanes having serial numbers 20501 through 20999 inclusive); as applicable.

**Note 1 to paragraph (g):** For obtaining the sections for Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.

**(h) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Section 03–19, Electrical, of Chapter 03, Emergency Procedures, and Section 05–19, Electrical, of Chapter 05, Non-Normal Procedures, of the Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, Revision 62, dated December 22, 2020; or Bombardier Challenger 350 Airplane Flight Manual, Publication No. CH 350 AFM, Revision 28, dated December 22, 2020; as applicable.

**Note 2 to paragraph (h):** For obtaining the sections for Bombardier Challenger 300 (Imperial Version) Airplane Flight Manual, Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

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

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–46, dated November 17, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0691.

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

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on August 17, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–17943 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0688; Project Identifier 2019–SW–025–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Hélicoptères Guimbal 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 Hélicoptères Guimbal (HG) Model Cabri G2 helicopters. This proposed AD was prompted by the determination that certain parts need life limits and certification maintenance requirement (CMR) tasks. This proposed AD would require establishing life limits and CMR tasks for various parts and removing any parts from service that have reached or exceeded their life limits. Depending on the results of the CMR tasks, this proposed AD would require corrective action. 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 October 7, 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 Hélicoptères Guimbal, Basile Ginel, 1070, rue du Lieutenant Parayre, Aérodrome d'Aix-en-Provence, 13290 Les Milles, France; telephone 33–04–42–39–10–88; email *basile.ginel@guimbal.com;* web *https://www.guimbal.com.* 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–2021–0688; 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:** Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@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–2021–0688; Project Identifier 2019–SW–025–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 Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD 2016–0032, dated February 24, 2016 (EASA AD 2016–0032), to correct an unsafe condition for HG Model Cabri G2 helicopters. EASA AD 2016–0032 states HG has revised the airworthiness limitations and maintenance tasks specified in the existing maintenance manual. EASA further advised the revisions include new and more restrictive applicable life limits and compliance times for applicable tasks. Accordingly, EASA 2016–0032 required replacing each affected part before exceeding its life limit, accomplishing all applicable maintenance tasks within the defined intervals as described in revised maintenance manual and if discrepancies were found accomplishing the corrective actions in accordance with the applicable maintenance instructions or contacting HG. EASA AD 2016–0032 also required revising the existing Aircraft Maintenance Program (AMP) for your helicopter by incorporating the actions specified in the revised maintenance. After EASA issued EASA AD 2016–0032, HG again revised the airworthiness limitations and maintenance tasks.

Accordingly, EASA superseded EASA AD 2016–0032 with EASA AD 2019–0025, dated February 4, 2019 (EASA AD 2019–0025). EASA advises new and more restrictive life limits have been established for cooling fan part number (P/N) G52–00–001, and P/N G52–00–002, which have been identified as mandatory for continued airworthiness in Hélicoptères Guimbal Cabri G2 Maintenance Manual (MM) and Instructions for Continued Airworthiness J70–002 Issue 06, Section C, Airworthiness Limitations, dated December 6, 2018 (MM J70–002 Issue 06). In addition to the new life limits, EASA further advises of new and more restrictive inspection intervals identified in MM J70–002–Issue 06 for cooling fan P/N G52–00–001 with a certain mounted cooling fan front flange P/N G52–02–200, or P/N G52–02–201. EASA further advises MM J70–002 Issue 06, revised the tail structure paint to include certain part-numbered tail booms and an additional figure. This condition, if not addressed, could result in parts remaining in service beyond their fatigue life and failure of a part, which could result in loss of control of the helicopter.

Accordingly, EASA AD 2019–0025 retains the requirements of EASA AD 2016–0032 and requires replacing each affected part before exceeding its life limit, accomplishing all applicable maintenance tasks within the defined intervals as described in MM J70–002 Issue 6, and if discrepancies are found accomplishing the corrective actions in accordance with the applicable maintenance instructions or contacting HG. EASA AD 2019–0025 also requires revising the tail structure paint scheme to include certain part-numbered tail booms and an additional figure. EASA AD 2019–0025 requires revising the existing AMP for your helicopter by incorporating the actions specified in MM J70–002 Issue 6.

**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 Hélicoptères Guimbal Cabri G2 MM J70–002 Issue 06. This service information specifies airworthiness life limits, inspection intervals, and CMR requirements for parts installed on Cabri G2 helicopters. Issue 06 establishes life limits for certain part-numbered cooling fan front flanges, and engine pulley ball bearings and CMR requirements for certain cooling fan front flanges.

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, before further flight after the effective date of this AD, removing from service certain part-numbered cooling fan front flanges and engine pulley ball bearings that have accumulated or exceeded their life limit. This proposed AD would also require establishing recurring CMR tasks for certain part-numbered cooling fan front flanges. Depending on the results of the CMR tasks, this proposed AD would also require corrective action. Additionally, this proposed AD would require painting certain part-numbered tail booms with glossy white paint.

**Differences Between This Proposed AD and EASA AD 2019–0025**

EASA AD 2019–0025 requires contacting Hélicoptères Guimbal for corrective actions when a discrepancy is found, whereas this proposed AD would require removing the part from service. EASA AD 2019–0025 requires accomplishing the actions specified in MM J70–002 Issue 06, whereas this proposed AD would require establishing a life limit for certain part-numbered cooling fan front flanges and certain part-numbered engine pulley ball bearings and removing any part from service accordingly instead. EASA AD 2019–0025 requires revising the AMP with the actions specified in MM J70–002 Issue 06, whereas the proposed AD would not.

**Costs of Compliance**

The FAA estimates that this proposed AD would affect 32 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

Replacing a cooling fan front flange would take about 16 work-hours and parts would cost about $4,500 for an estimated cost of $5,860 per helicopter and $187,520 for the U.S. fleet, per replacement cycle.

Replacing an engine pulley ball bearing would take about 12 work-hours and parts would cost about $250 for an estimated cost of $1,270 per helicopter and $40,640 for the U.S. fleet, per replacement cycle.

The FAA has no way of determining the estimated costs to do allowable repairs based on the results of the CMR tasks. If required, replacing a cracked cooling fan front flange would take about 16 work-hours and parts would cost about $4,500 for an estimated cost of $5,860.

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:

**Hélicoptères Guimbal:** Docket No. FAA–2021–0688; Project Identifier 2019–SW–025–AD.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Hélicoptères Guimbal (HG) Model Cabri G2 helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 7100, Powerplant System.

**(e) Unsafe Condition**

This AD was prompted by a notification of certain parts remaining in service beyond their fatigue life or beyond maintenance intervals required by the certification maintenance requirements (CMRs) of the Instructions for Continued Airworthiness. The FAA is issuing this AD to prevent failure of a part, which could result in loss of control of the helicopter.

**(f) Compliance**

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

**(g) Required Actions**

(1) Before further flight after the effective date of this AD, remove from service any part that has reached or exceeded its life limit, as specified in paragraphs (g)(1)(i) through (iii) of this AD, and thereafter remove from service any part on or before each part reaches its life limit:

(i) The life limit for cooling fan front flange part number (P/N) G52–02–200 mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101; and cooling fan front flange P/N G52–02–201 mounted or having been mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101, installed on cooling fan P/N G52–00–001 or G52–00–002; is 2,200 total hours time-in-service (TIS).

(ii) The life limit for cooling fan front flange P/N G52–02–201 mounted on pulley (24 screws) P/N G52–10–102 and having never been mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101, installed on cooling fan P/N G52–00–001 or G52–00–002, is 4,400 total hours TIS.

(iii) The life limit for engine pulley ball bearing P/N HG61–0790 and HG61–1944, installed on engine pulley assembly P/N G51–14–1XX, is 2,200 total hours TIS.

(2) Perform the following CMR tasks as follows:

(i) Cooling fan front flange P/N G52–02–200 mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101; and cooling fan front

flange P/N G52–02–201 mounted or having been mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101, installed on cooling fan P/N G52–00–001, and with 500 or more total hours TIS since new as of the effective date of this AD: Within 5 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 50 hours TIS, or 70 engine start-stop cycles, whichever occurs first, inspect the cooling fan front flange for a crack in accordance with Hélicoptères Guimbal Cabri G2 Maintenance Manual (MM) and Instructions for Continued Airworthiness J70–002 Issue 06, Section C, Airworthiness Limitations, dated December 6, 2018 (MM J70–002 Issue 06), sub section 52–A–10 Cooling Fan Inspection, paragraphs (c) through (d). If any crack is found, before further flight, remove the cooling fan front flange from service.

(ii) Cooling fan front flange P/N G52–02–200 mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101; and cooling fan front flange P/N G52–02–201 mounted or having been mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101, installed on cooling fan P/N G52–00–001, and with less than 500 total hours TIS since new as of the effective date of this AD: Before accumulating 500 total hours TIS since new and thereafter at intervals not to exceed 50 hours TIS, or 70 engine start-stop cycles, whichever occurs first, inspect the cooling fan front flange for a crack in accordance with MM J70–002 Issue 06, sub section 52–A–10 Cooling Fan Inspection, paragraphs (c) through (d). If any crack is found, before further flight, remove the cooling fan front flange from service.

(iii) Cooling fan front flange P/N G52–02–201 mounted on pulley (24 screws) P/N G52–10–102 and having never been mounted on pulley (12 screws) P/N G52–10–100 or G52–10–101, installed on cooling fan P/N G52–00–002: Before accumulating 500 total hours TIS since new and thereafter at intervals not to exceed 100 hours TIS, inspect the cooling fan front flange for a crack in accordance with MM J70–002, Issue 06, sub section 52–A–10 Cooling Fan Inspection, paragraphs (c) through (d). If any crack is found, before further flight, remove the cooling fan front flange from service.

(iv) For helicopters with tail boom P/N G65–00–101, G65–00–102 or G65–00–103 and subsequent installed: Before further flight after the effective date of this AD, paint or verify the tail boom upper surface in accordance with MM J70–002, Issue 06, sub section C–23 Tail Structure Paint, as applicable to your helicopter.

**(h) Credit for Previous Actions**

This paragraph provides credit for the actions specified in paragraph (g)(2)(i), (ii) and (iii) of this AD, if those actions were performed before the effective date of this AD using Hélicoptères Guimbal Cabri G2 MM and Instructions for Continued Airworthiness J70–002 Issue 05.1, Section C, Airworthiness Limitations, dated October 30, 2015, sub section 52–A–10 Cooling Fan Inspection, paragraphs (c) through (d).

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

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

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

**(j) Related Information**

(1) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(2) For service information identified in this AD, contact Hélicoptères Guimbal, Basile Ginel, 1070, rue du Lieutenant Parayre, Aérodrome d'Aix-en-Provence, 13290 Les Milles, France; telephone 33–04–42–39–10–88; email *basile.ginel@guimbal.com;* web *https://www.guimbal.com.* 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 2019–0025, dated February 4, 2019. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–0688.

Issued on August 16, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–17944 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0689; Project Identifier AD–2020–01589–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Sikorsky Aircraft Corporation 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 certain Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters. This proposed AD was prompted by a cracked main rotor stationary swashplate assembly (swashplate assembly). This proposed AD would require visually inspecting the swashplate assembly at specified intervals and depending on the results, removing the swashplate assembly from service. 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 October 7, 2021.

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

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

For service information identified in this NPRM, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* 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–2021–0689; 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:** Jared Hyman, Aerospace Engineer,

Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email: *Jared.M.Hyman@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–2021–0689; Project Identifier AD–2020–01589–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 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 Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email: *Jared.M.Hyman@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 was notified of an in-service crack in a swashplate assembly inner ring. The crack, discovered during a routine inspection, extended between the uniball bore and near the right-hand trunnion to servo attach bolt hole. This condition, if not detected and corrected, could result in fretting wear on the shoulder that supports the clamp-up of the uniball outer race, failure of the swashplate assembly, and subsequent loss of control of the helicopter.

**FAA's Determination**

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

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

The FAA reviewed Sikorsky Aircraft Corporation Alert Service Bulletin ASB 92–62–009, Basic Issue, dated February 6, 2019 (ASB). The ASB specifies a one-time visual inspection of the swashplate assembly to determine if there are any cracks. If cracks are found, the ASB specifies replacing the swashplate assembly. If there is any other damage such as nicks, dents, or scratches, the ASB specifies providing that damage information to Sikorsky. The ASB also specifies returning the swashplate assembly, uniball bearing, trunnions, and all attachment hardware to Sikorsky for investigation if cracks are found. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

**Proposed AD Requirements in This NPRM**

This proposed AD would require, within 50 hours time-in-service (TIS), and thereafter at intervals not to exceed 50 hours TIS, visually inspecting the upper and lower surfaces of the swashplate assembly for a crack, nick, dent, and scratch. If there is a crack, nick, dent, or scratch that exceeds allowable limits, this proposed AD would require removing the swashplate assembly from service before further flight.

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

The ASB specifies a one-time visual inspection of the swashplate assembly; this proposed AD would require repetitive visual inspections of the swashplate assembly to determine if any crack, nick, dent, or scratch develops over time. This proposed AD would not require returning parts to or contacting Sikorsky, while the ASB specifies performing those actions.

**Costs of Compliance**

The FAA estimates that this AD would affect 89 helicopters of U.S. Registry and that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

Visually inspecting a swashplate assembly would take about 0.5 work-hour, for an estimated cost of $43 per helicopter and $3,827 for the U.S. fleet, per inspection cycle.

Replacing the swashplate assembly, if required, would take about 16 work-hours and parts would cost about $389,720, for an estimated cost of $391,080 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:

**Sikorsky Aircraft Corporation:** Docket No. FAA–2021–0689; Project Identifier AD–2020–01589–R.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by October 7, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Sikorsky Aircraft Corporation Model S–92A helicopters, certificated in any category, with a main rotor stationary swashplate assembly (swashplate assembly) part number (P/N) 92104–15011–042 or P/N 92104–15011–043 that has accumulated 1,600 or more total hours time-in-service, installed.

**(d) Subject**

Joint Aircraft System Component (JASC) Code/Air Transport Association (ATA) of America Code 6230, Main Rotor Mast/Swashplate.

**(e) Unsafe Condition**

This AD was prompted by the discovery of a crack on the swashplate assembly inner ring. This condition, if not detected and corrected, could result in fretting wear on the shoulder that supports the clamp-up of the uniball outer race, failure of the swashplate assembly, 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 time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 50 hours TIS, visually inspect the swashplate assembly for a crack, nick, dent, and scratch, by following the Accomplishment Instructions, Section 3, paragraph B. (except paragraphs B.(2)(a) through (c)) of Sikorsky Aircraft Corporation Alert Service Bulletin ASB 92–62–009, Basic Issue, dated February 6, 2019.

(2) If there is a crack, nick, dent, or scratch that exceeds the allowable limits, before further flight, remove the swashplate assembly from service.

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

(1) The Manager, Boston ACO, Compliance & Airworthiness Division, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information.

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

**(i) Related Information**

(1) For more information about this AD, contact Jared Hyman, Aerospace Engineer, Boston ACO Branch, Compliance & Airworthiness Division, FAA, 1200 District Avenue, Burlington, Massachusetts 01803; telephone 781–238–7799; email: *Jared.M.Hyman@faa.gov.*

(2) For service information identified in this AD, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view this referenced service information at the FAA, 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.

Issued on August 16, 2021.

**Ross Landes,**

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

[FR Doc. 2021–17948 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

### Proposed Amendment of Class C Airspace at Chicago Midway International Airport, IL; Public Meeting

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

**ACTION:** Notification of meeting.

**SUMMARY:** This document announces a fact-finding informal airspace meeting regarding a plan to amend the Class C Airspace at Chicago Midway International Airport, IL. The purpose of the meeting is to solicit aeronautical comments on the proposal's effects on local aviation operations. All comments received during the meeting, and the subsequent comment period, will be considered prior to the issuance of a notice of proposed rulemaking.

**DATES:** The meetings will be held on Tuesday, September 28, 2021, beginning at 1:00 p.m. (Central Time) and on Wednesday, September 29, 2021, beginning at 6:00 p.m. (Central Time). Comments must be received on or before Friday, October 29, 2021. Each registered participant that indicated they would like to make comments during the meeting will be given an opportunity to deliver their comments or make a presentation, although a time limit may be imposed to accommodate closing times.

**ADDRESSES:**

*Format:* This will be a virtual informal airspace meeting using the Zoom teleconferencing tool. The meeting will also be available to watch on the FAA's Facebook, Twitter, and YouTube social media channels.

*Comments:* Send comments on the proposal, not later than October 29, 2021, to: Christopher Southerland, Manager, Operations Support Group, Central Service Area, Air Traffic Organization, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177; or via email to: *9-ASW-CSC-OSG-Airspace-Comments@faa.gov,* please include *MDW Class C* in the email subject line.

**FOR FURTHER INFORMATION CONTACT:** Al Qualiardi, Support Manager, Chicago District, Chicago Terminal Radar Approach Control (TRACON), Air Traffic Organization, 1100 Bowes Road, Elgin, IL, 60123. Telephone: (847) 608–5591.

**SUPPLEMENTARY INFORMATION:**

*Meeting Procedures:*

The meeting will provide interested parties an opportunity to present views, recommendations, and comments on the proposed airspace amendment.

(a) Registration: To attend the meeting, members of the public are asked to register at *https://zoom.us/webinar/register/WN_1MpVHlbdRHS4SeyIMgxcqw* for the Tuesday, September 28, 2021, meeting and at *https://zoom.us/webinar/register/WN_zY2MTFJnQDynDG1-tZS16g* for the Wednesday, September 29, 2021, meeting. When registration is confirmed, registrants will be provided

the virtual meeting weblink information/teleconference call-in number and passcode. Callers are responsible for paying associated long-distance charges (if any).

(b) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate. The meeting will be informal in nature and will be conducted by one or more representatives of the FAA Eastern Service Area. A representative from the FAA will present a briefing on the planned airspace modifications.

(c) Each participant will be given an opportunity to deliver comments or make a presentation, although a time limit may be imposed to accommodate closing times. Only comments concerning the plan to amend the Chicago Midway Class C airspace area will be accepted.

(d) Each person wishing to make a presentation will be asked to note their intent when registering for the meeting so those time frames can be established. This meeting will not be adjourned until everyone registered to speak has had an opportunity to address the panel. This meeting may be adjourned at any time if all persons present have had an opportunity to speak.

(e) Position papers or other handout material relating to the substance of the meeting will be accepted. Participants submitting papers or handout materials should send them to the mail or email address noted in the COMMENTS section, above.

(f) This meeting will not be formally recorded. However, a summary of the comments made at the meeting will be filed in the rulemaking docket.

Information gathered through this meeting will assist the FAA in drafting a notice of proposed rulemaking (NPRM) that would be published in the **Federal Register**. The public will be afforded the opportunity to comment on any NPRM published on this matter.

A graphic depiction of the proposed airspace modifications may be viewed at the following URL: *https://www.faa.gov/air_traffic/community_involvement/mdw/.*

### Agenda for the Meeting

—Presentation of Meeting Procedures

—Informal Presentation of the planned Class C Airspace area

—Public Presentations and Discussions

—Closing Comments

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

Issued in Washington DC, on August 16, 2021.

**George Gonzalez,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2021–17929 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2021–0647]**

**RIN 1625–AA00**

## Safety Zone; CBWTP Outfall Diffuser Improvements, Columbia River, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone for certain navigable waters of the Columbia River. This action is necessary to provide for the safety of life on these navigable waters near Portland, OR, at Columbia River Mile 105.6 from October 1, 2021, through February 28, 2022. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Columbia River 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 September 7, 2021.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0647 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 LCDR Sean Morrison, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email *D13-SMB-MSUPortlandWWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background, Purpose, and Legal Basis

On July 20, 2021, Ballard Marine Construction notified the Coast Guard that it would begin construction for their CBWTP Outfall Diffuser Improvements Project from 12:01 a.m. on October 1, 2021, through 11:59 p.m. on February 28, 2022, to remove and replace existing pipeline along with dredging operations. The construction project includes the two Outfall easements (001 and 003) being dredged with diver assistance to expose existing risers and diffusers. The existing risers and diffuser valves will be removed and disposed of. In their place, longer risers will be attached along with new diffuser valves. Additionally, the Outfalls will be dredged to remove the treated effluent that has settled inside the main trunk lines if needed. All diver work will be supported by a floating crane barge approximately 50 feet by 185 feet that will be anchored during the duration of work upon each of the two specified Outfalls and will be moved within the zone approximately four times. The Captain of the Port Sector Columbia River (COTP) has determined that potential hazards associated with the construction project would be a safety concern for anyone within the designated area of the CBWTP Outfall Diffuser Improvements.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the designated area of the CBWTP Outfall Diffuser Improvements construction project. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

### III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from October 1, 2021, through February 28, 2022. The safety zone would cover all navigable waters of the Columbia River, surface to bottom, approximately 300 yards to the east and west side of the Burlington Northern Railroad Bridge on the Oregon side of the Columbia River from the shoreline to the outside of the main navigational channel; specifically beginning at the shoreline at 45°37′26.2″ N, 122°41′46.91″ W, northeast to 45°37′33.206″ N, 122°41′37.699″ W, southeast to 45°37′23.4″ N, 122°41′18.1″ W, thence southwest to 45°37′16.27″ N, 122°41′30.75″ W, and along the shoreline back to the beginning point. The duration of the zone is intended to ensure the safety of vessels and these

navigable waters while the construction is underway. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP to act on his behalf, or a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Columbia River in the enforcement of the safety zone. Vessel operators desiring to enter or operate with the safety zone would contact the COTP's on-scene designated representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the safety zone would comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. The regulatory text we are proposing appears at the end of this document.

## IV. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Columbia River during the construction project. Moreover, the Coast Guard would issue a Notice to Mariners about the zone, and the rule would allow vessels to seek permission to enter the zone.

### *B. Impact on Small Entities*

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed 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 85 days that would prohibit vessel traffic to transit the area during construction operations. Normally such actions are categorically excluded from further review under paragraph L60 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, Revision No. 01.2.

■ 2. Add § 165.T13–0647 to read as follows:

**§ 165.T13–0647 Safety Zones: Safety Zone; CBWTP Outfall Diffuser Improvements, Columbia River, Portland, OR.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Columbia River, surface to bottom, encompassed by a line connecting the following points beginning at the shoreline at 45°37′26.2″ N, 122°41′46.91″ W, northeast to 45°37′33.206″ N, 122°41′37.699″ W, southeast to 45°37′23.4″ N, 122°41′18.1″ W, thence southwest to 45°37′16.27″ N, 122°41′30.75″ W, and along the shoreline back to the beginning point.

(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 Sector Columbia River 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) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. 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 period.* This safety zone is in effect from 12:01 a.m. on October 1, 2021, through 11:59 p.m. on February 28, 2022. It will be subject to enforcement this entire period unless the Captain of the Port, Sector Columbia River determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners.

Dated: August, 17, 2021.

**M. Scott Jackson,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Columbia River.*

[FR Doc. 2021–17911 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2021–0438; FRL–8773–01–Region 9]**

## Limited Approval and Limited Disapproval of California Air Quality Implementation Plan Revisions; Amador Air District; Stationary Source Permits

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of a revision to the Amador Air District's (AAD or ''District'') portion of the California State Implementation Plan (SIP). This revision governs the District's issuance of permits for stationary sources, and focuses on the preconstruction review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or ''the Act''). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before September 22, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0438 at *http://www.regulations.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*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider Confidential Business Information (CBI) or other information the disclosure of which 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, 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://www.epa.gov/dockets/commenting-epa-dockets.* 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:** Amber Batchelder, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; by phone: (415) 947–4174, or by email to *batchelder.amber@epa.gov.*

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

**Table of Contents**



## I. The State's Submittal

### *A. What rule did the State submit?*

Table 1 lists the rule addressed by this proposal, including the date on which it was adopted by the District and the date on which it was submitted to the EPA by the California Air Resources Board (CARB or ''the State''). The AAD is the air pollution control agency for Amador County in California.

TABLE 1—SUBMITTED RULE

| Local agency | Rule No. | Rule title | Adopted | Submitted [1] |
|---|---|---|---|---|
| AAD | 400 | NSR Requirements for New and Modified Major Sources in Nonattainment Areas. | 08/20/19 | 11/05/19 |

[1] The submittal was transmitted to the EPA via a letter from CARB dated October 31, 2019.

On May 5, 2020, the submittal for AAD Rule 400 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

### *B. Are there other versions of this rule?*

There are no previous versions of Rule 400 in the SIP.

### *C. What is the purpose of the submitted rule?*

Rule 400 is intended to address the CAA's statutory and regulatory requirements for Nonattainment New Source Review (NNSR) permit programs for major sources emitting nonattainment air pollutants and their precursors.

## II. The EPA's Evaluation and Action

### *A. What is the background for this proposal?*

The EPA's April 2004 designation of Amador County as a nonattainment area for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) triggered the requirement for the AAD to develop and submit an NNSR program to the EPA for SIP approval.[2] Although the EPA revoked the 1997 8-hour ozone NAAQS effective April 6, 2015,[3] the NNSR requirements applicable to Amador County based on its designation and classification for the revoked 1997 8-hour ozone NAAQS remain applicable in order to prevent future emissions from new and modified major stationary sources from increasing beyond the levels allowed, based on the area's prior designation and classification for the 1997 ozone NAAQS. Thus, because Amador County was designated and classified as Moderate nonattainment for the 1997 8-hour ozone NAAQS, the District's NNSR program must satisfy the NNSR requirements applicable to Moderate ozone nonattainment areas, including the offset ratios identified in CAA section 182(b)(5).[4] Amador County is also designated and classified as Marginal nonattainment for the 2015 8-hour ozone NAAQS and, therefore, subject to the NNSR requirements applicable to Marginal ozone nonattainment areas.[5] Submission of an NNSR program that satisfies the requirements of the Act and the EPA's regulations for Moderate ozone nonattainment areas, however, would satisfy the NNSR program requirements for Marginal ozone nonattainment areas.[6]

Additional information regarding the District's nonattainment status for each pollutant is included in our Technical Support Document (TSD), which may be found in the docket for this rule.

### *B. How is the EPA evaluating the rule?*

The EPA reviewed Rule 400 for compliance with CAA requirements for: (1) Stationary source preconstruction permitting programs as set forth in CAA part D, including CAA sections 172(c)(5) and 173; (2) the review and modification of major sources in accordance with 40 CFR 51.160–51.165 as applicable in Moderate ozone nonattainment areas; (3) the review of new major stationary sources or major modifications in a designated nonattainment area that may have an impact on visibility in any mandatory Class I Federal Area in accordance with 40 CFR 51.307; (4) SIPs in general as set forth in CAA section 110(a)(2), including 110(a)(2)(A) and 110(a)(2)(E)(i);[7] and (5) SIP revisions as set forth in CAA section 110(l)[8] and 193.[9] Our review evaluated the

[2] CAA section 172(b) and 40 CFR 51.914.

[3] 80 FR 12264, 12265 (March 6, 2015).

[4] The EPA's determination that the Amador County area had attained the 1997 8-hour ozone NAAQS by the applicable attainment date suspended the requirements to submit those SIP elements related to attainment of these NAAQS for so long as the area continues to attain but did not suspend the requirement to submit an NNSR program. 40 CFR 51.918; see also 77 FR 71551, 71553–71554 (Dec. 3, 2012) (noting that the EPA's attainment determination does not redesignate the area to attainment or relax control requirements).

[5] 40 CFR 51.1314.

[6] The NNSR requirements applicable to Moderate ozone nonattainment areas are identical to those that apply to Marginal ozone nonattainment areas, except that Moderate nonattainment areas are subject to a more stringent offset ratio than Marginal nonattainment areas. CAA sections 182(a)(2)(C) (requiring permit programs consistent with CAA sections 172(c)(5) and 173 for ozone nonattainment areas), 182(a)(4) (establishing 1.1 to 1 offset ratio for Marginal nonattainment areas), and 182(b)(5) (establishing 1.15 to 1 offset ratio for Moderate nonattainment areas) and 40 CFR 51.165.

[7] CAA section 110(a)(2)(A) requires that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and CAA section 110(a)(2)(E)(i) requires that states have adequate personnel, funding, and authority under state law to carry out their proposed SIP revisions.

[8] Per CAA section 110(l), SIP revisions are subject to reasonable notice and public hearing prior to adoption and submittal by states to the EPA. Additionally, CAA section 110(l) prohibits the EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

[9] CAA section 193 prohibits the modification of any SIP-approved control requirement in effect before November 15, 1990 in a nonattainment area

Continued

submittal for compliance with the NNSR requirements applicable to Moderate ozone nonattainment areas, and ensured that the submittal addressed the NNSR requirements for the 1997 and 2015 ozone NAAQS.

*C. Does the rule meet the evaluation criteria?*

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the November 5, 2019 submittal of Rule 400, we find that the AAD has provided sufficient evidence of public notice, opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

With respect to the substantive requirements found in CAA sections 172(c)(5) and 173, and 40 CFR 51.160–51.165, we have evaluated Rule 400 in accordance with the applicable CAA and regulatory requirements that apply to NNSR permit programs under part D of title I of the Act for all relevant ozone NAAQS, including the 2015 ozone NAAQS. With the exceptions noted below in Section II.D, we find that Rule 400 satisfies these requirements as they apply to sources subject to the NNSR permit program requirements applicable to Moderate ozone nonattainment areas. We have also determined that this rule satisfies the related visibility requirements in 40 CFR 51.307. In addition, we have determined that Rule 400 satisfies the requirement in CAA section 110(a)(2)(A) that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and have determined that the submittal demonstrates, in accordance with CAA section 110(a)(2)(E)(i), that the District has adequate personnel, funding, and authority under state law to carry out these proposed SIP revisions.

Regarding the additional substantive requirements of CAA sections 110(l) and 193, our action will result in a more stringent SIP, while not relaxing any existing provision contained in the SIP. We have concluded that our action would comply with section 110(l) because our limited approval of Rule 400 will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA applicable requirement. In addition, our limited approval of Rule 400 will not relax any pre-November 15, 1990 requirement in the SIP, and therefore changes to the SIP resulting from this action ensure greater or equivalent emission reductions of ozone and its precursors in the District. Accordingly, we have concluded that our action is consistent with the requirements of CAA section 193.

*D. What are the rule deficiencies?*

The EPA identified five deficiencies in Rule 400. First, Section 4.5 of Rule 400 allows for the District to approve interprecursor trading (IPT) of ozone precursors to satisfy emission offset requirements, provided certain conditions are satisfied. However, on January 29, 2021, the D.C. Circuit Court of Appeals in *Sierra Club* v. *EPA,* 984 F.3d 1055, issued a decision holding that the CAA does not allow IPT for ozone precursors and vacating the provisions in the EPA's NNSR regulations allowing IPT for ozone precursors. In light of the Court's decision, the provision in Section 4.5 allowing for IPT for ozone precursors is no longer permissible. Second, Section 9.1(b)(iii) of Rule 400 fails to reference Section 7.4 (Relaxation in Enforceable Limitations). This apparent typographical error creates a deficiency in Section 9.1(b)(iii) of the rule, because it suggests that the source and the District need not adhere to the General requirements for establishing Plant-wide Applicability Limitations (PALs) in Section 9.4, which are required by 40 CFR 51.165(f)(4). Third, due to an apparent typographical error, Section 9.5 of the rule does not require the District to implement the public participation provisions of Section 8 for purposes of processing a request for a PAL to be established, renewed or increased in accordance with 40 CFR 51.165(f)(5). Therefore, the provisions of Section 9.5 are deficient. This error also causes a related deficiency in Sections 9.4(a)(ii), 9.8(b)(iii), 9.10(a), and 9.11(c), because these rule sections cross-reference Section 9.5, which refers to the wrong section of the rule for public participation requirements. Fourth, Section 9.10(d)(i) references Section 9.5 when it should reference Section 9.6. This error appears typographical in nature. However, this error creates a deficiency because it does not provide the correct reference for how to perform the emissions level calculation in accordance with 40 CFR 51.165(f)(10)(iv)(A). Fifth, Section 9.12(a)(iii) includes a reference to Section 7.12 of the rule (which does not exist), instead of Section 9.12. This apparent typographical error creates a deficiency in Section 9.12(a)(iii), because it does not include the requirement to comply with the provisions of Section 9.12 in accordance with 40 CFR 51.165(f)(12)(i)(C).

Our TSD, which can be found in the docket for this rule, contains a more detailed discussion of our analysis of Rule 400.

*E. EPA Recommendations To Further Improve the Rule*

The TSD also includes recommendations for additional clarifying revisions to consider for adoption when the AAD next modifies Rule 400.

*F. Proposed Action and Public Comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is proposing a limited approval and limited disapproval of the submitted rule because it fulfills most of the relevant CAA requirements, and strengthens the SIP, but also contains five deficiencies. We have concluded that our limited approval of the submitted rule would comply with the relevant provisions of CAA sections 110(a)(2), 110(l), 172(c)(5), 173, and 193, 40 CFR 51.160–51.165, and 40 CFR 51.307.

If we finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.220a (Identification of plan—in part). This action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because the EPA is simultaneously proposing a limited disapproval of the rule under CAA section 110(k)(3).

If finalized as proposed, our limited disapproval action would trigger an obligation on the EPA to promulgate a Federal Implementation Plan (FIP) unless the State corrects the deficiencies, and the EPA approves the related plan revisions, within two years of the final action. Additionally, because the deficiencies relate to NNSR requirements under part D of title I of the Act, the offset sanction in CAA section 179(b)(2) would apply in Amador County 18 months after the effective date of a final limited disapproval, and the highway funding sanctions in CAA section 179(b)(1) would apply in the area six months after the offset sanction is imposed. Section 179 sanctions will not be imposed under the CAA if the State submits, and we approve, prior to the implementation of the sanctions, a SIP revision that corrects the deficiencies that we identify in our final action. The EPA intends to work with the District to correct the deficiencies in a timely manner.

unless the modification ensures equivalent or greater emission reductions of the relevant pollutants.

We will accept comments from the public on this proposal until September 22, 2021.

## III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the AAD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and in hard copy at the EPA Region IX 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

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 (OMB) for review.

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

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

### *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 beyond those imposed by state law.

### *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. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

### *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, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

### *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 impose additional requirements beyond those imposed by state law.

### *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)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

## List of Subjects in 40 CFR Part 52

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

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

Dated: August 9, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021–17312 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
Vol. 86, No. 160
Monday, August 23, 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.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Notice of Public Meeting of the Assembly of the Administrative Conference of the United States

**AGENCY:** Administrative Conference of the United States.

**ACTION:** Notice.

**SUMMARY:** The Assembly of the Administrative Conference of the United States will meet during a plenary session to vote on modifications to a recommendation that was considered at its 74th Plenary Session on June 17, 2021. The plenary session will take place entirely by electronic voting, without an in-person component. Written comments regarding the modifications may be submitted in advance, and the voting results will be accessible to the public.

**DATES:** The meeting (*i.e.,* electronic voting) will take place beginning on Monday, September 13, 2021, at 9 a.m., and continue through Friday, September 17, 2021, at 12 noon.

**ADDRESSES:** The meeting will be conducted by electronic voting and will have no physical location or in-person component. Additional information about the meeting will be available on the agency's website prior to the meeting at *https://www.acus.gov/meetings-and-events/event/75th-plenary-session.*

**FOR FURTHER INFORMATION CONTACT:** Shawne McGibbon, General Counsel (Designated Federal Officer), Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW, Washington, DC 20036; Telephone 202–480–2080; email *smcgibbon@acus.gov.*

**SUPPLEMENTARY INFORMATION:** The Administrative Conference of the United States makes recommendations to federal agencies, the President, Congress, and the Judicial Conference of the United States regarding the improvement of administrative procedures (5 U.S.C. 594). The membership of the Conference, when meeting in plenary session, constitutes the Assembly of the Conference (5 U.S.C. 595).

*Agenda:* The Assembly will vote on the adoption of a single proposed amended recommendation, *Clarifying Statutory Access to Judicial Review of Agency Action,* which is described below.

*Conduct of the Online Meeting:* Electronic voting on this amended proposed recommendation will take place over a period of several days. The period for voting will commence at 9 a.m. on Monday, September 13, and will end at 12 noon on Friday, September 17. Assembly members may vote by email at any time during this period and the public may submit comments in writing.

*Clarifying Statutory Access to Judicial Review of Agency Action.* As was the case with the original proposed recommendation (which the Assembly considered at the Conference's 74th Plenary Session on June 17, 2021), this amended proposed recommendation urges Congress to enact a cross-cutting statute that addresses certain recurring technical problems in statutory provisions governing judicial review of agency action that may cause unfairness, inefficiency, or unnecessary litigation. It also offers a set of drafting principles for Congress when it writes new or amended judicial review statutes. It draws in large part on ACUS's forthcoming *Sourcebook of Federal Judicial Review Statutes,* which analyzes the provisions in the U.S. Code governing judicial review of rules and adjudicative orders and identifies recurring drafting problems in them.

The original proposed recommendation was not adopted at the 74th Plenary Session. Instead, the Assembly remanded the recommendation to the Conference's Committee on Judicial Review to address a technical matter relating to rulemakings with post-promulgation comment periods (*i.e.,* rulemakings in which an agency promulgates a rule before receiving and considering public comment).

The Committee on Judicial Review met during a public meeting on July 22, 2021, to address the remand. Members of the Committee unanimously agreed that the optimal approach to the problems posed by rulemakings with post-promulgation comment periods is to exempt such rulemakings from the scope of the recommendation. Numbered paragraphs 2 and 4(b) of the recommendation were therefore modified to clarify that they apply only in cases where a final rule is published in the **Federal Register** after the public has been given a chance to comment on the rule. Corresponding edits were made to the preamble of the recommendation.

Additional information about the recommendation, including the history of its development, prior public comments, etc., can be found at the 75th Plenary Session page on the Conference's website prior to the start of the meeting: *https://www.acus.gov/meetings-and-events/event/75th-plenary-session.*

*Public Participation:* The public may participate by submitting comments before and during the voting process. Relevant public comments will be posted, generally the same day, on the 75th Plenary Session web page. Voting members will have the opportunity to view and consider the comments during the voting process. The voting results will be made available on the same web page after voting has concluded.

*Written Comments:* Persons who wish to comment on the amendments may do so by submitting a written statement either online by clicking ''Submit a comment'' on the 75th Plenary Session web page shown above or by mail addressed to: September 2021 Plenary Session Comments, Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW, Washington, DC 20036. Written submissions must be received prior to the end of voting at 12:00 noon (EDT), Friday, September 17, 2021.

Per the Conference's bylaws (located on the agency's website at *https://www.acus.gov/sites/default/files/documents/20190712_Final%20Assembly-Approved%20ByLaw%20Amendments.pdf*), Conference members who disagree in whole or in part with a recommendation adopted by the Assembly are entitled to enter a separate statement, which will be published together with the official publication of the recommendation. Notification of intention to file a separate statement must be given to the

Executive Director not later than the last day of the plenary session at which the recommendation is adopted, and any such separate statement must be filed within 10 calendar days after the close of the session.

*Authority:* 5 U.S.C. 595.

Dated: August 17, 2021.

**Shawne McGibbon,**

*General Counsel.*

[FR Doc. 2021–17973 Filed 8–20–21; 8:45 am]

**BILLING CODE 6110–01–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Ketchikan Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Ketchikan Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as make recommendations on recreation fee proposals for sites on the Tongass National Forest within Ketchikan Borough, consistent with the Federal Lands Recreation Enhancement Act.

**DATES:** The meeting will be held on September 9, 2021 at 6:00 p.m., Alaska Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

**ADDRESSES:** The meeting will be held virtually via telephone and/or video conference: Dial-in instructions: 1–888–844–9904, Access Code 4226188#.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Shane Walker, Designated Federal Officer (DFO), by phone at 907–228–4100 or email at *michael.s.walker@usda.gov* or Penny Richardson, RAC Coordinator, at 907–228–4105 or email at *penny.richardson@usda.gov.*

Individuals who use telecommunications devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

1. Hear from Title II project proponents and discuss project proposals;
2. Make funding recommendations on Title II projects;
3. Approve meeting minutes; and
4. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 6, 2021 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Penny Richardson, RAC Coordinator, 3031 Tongass Ave., Ketchikan, AK 99901; or by email to *penny.richardson@usda.gov.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: August 17, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–17924 Filed 8–20–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Shasta County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Shasta County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

**DATES:** The meetings will be held on:

- Wednesday, September 8, 2021, at 9:30 a.m., Pacific Daylight Time; and
- Wednesday, September 22, 2021, at 9:30 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meetings will be held virtually via Microsoft Teams. Details for how to join the meeting are listed in the above website link under **SUMMARY**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Shasta Lake Ranger Station. Please call ahead at 530–275–1587 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunications devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The agenda for the meeting is the following:

1. Roll call;
2. Comments from the Designated Federal Officer (DFO);
3. Approve minutes from last meeting;
4. Discuss, recommend, approve projects;
5. Public comment period; and
6. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by the Friday before each of the scheduled meetings, to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff

before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002; or by email to *lejon.hamann@usda.gov.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: August 17, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–17927 Filed 8–20–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Trinity County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Trinity County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees*.

**DATES:** The meetings will be held on:

- Monday, September 13, 2021, at 4:30 p.m., Pacific Daylight Time; and
- Monday, September 27, 2021, at 4:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held virtually via Microsoft Teams. Details for how to join the meeting are listed in the above website link under **SUMMARY**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Weaverville Ranger Station. Please call ahead at 530–623–2121 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunications devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to review the following:

1. Roll call;
2. Comments from the Designated Federal Officer (DFO);
3. Approve minutes from last meeting;
4. Discuss, recommend, and approve projects;
5. Public comment period; and
6. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by the Thursday before each of the scheduled meetings, to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002; or by email to *lejon.hamann@usda.gov.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: August 17, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–17923 Filed 8–20–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Notice of Proposed New Fee Site

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of proposed new fee site.

**SUMMARY:** The Caribou-Targhee National Forest will be implementing a new $95 per night, expanded amenity recreation fee for Jensen Cabin. The Federal Recreation Lands Enhancement Act directed the Secretary of Agriculture to publish a six-month advance notice in the **Federal Register** whenever new recreation fee areas are established. An analysis of the nearby private rental cabins with similar amenities shows that the proposed fees are reasonable and typical of similar sites in the area.

**DATES:** The new fee will be implemented no earlier than six months following the publication of this notice.

**ADDRESSES:** Caribou-Targhee National Forest, 1405 Hollipark Drive, Idaho Falls, Idaho 83401.

**FOR FURTHER INFORMATION CONTACT:** Kaye Orme, Recreation Fee Coordinator, 208–557–5790 or *kaye.orme@usda.gov.*

**SUPPLEMENTARY INFORMATION:** This fee proposal was vetted through the U.S. Forest Service public involvement process which included announcement of the proposal in local and regional media outlets, on the Forest internet and social media sites, and briefing of federal and local elected officials. The results of these efforts were presented to the local Resource Advisory Committee (RAC) for evaluation and recommendation to implement the new recreation fee.

Reasonable fees, paid by users of this cabin, will help ensure that the Forest can continue maintaining and improving recreation sites like this for future generations. A market analysis of surrounding recreation sites with similar amenities indicates that the fees are comparable and reasonable.

People wanting to reserve these cabins would need to do so through *Recreation.gov*, at *www.recreation.gov* or by calling 1–877–444–6777 when it becomes available.

*Authority:* Title VII, Pub. L. 108–447.

Dated: August 17, 2021.

**Tina Johna Terrell,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2021–17984 Filed 8–20–21; 8:45 am]

**BILLING CODE 3411–15–P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meetings of the South Dakota Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of public meetings.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the South Dakota State Advisory Committee to the Commission will convene meetings on Monday, September 20, 2021, at 3:30 p.m. (CT) and Monday, October 18, 2021, at 3:30 p.m. (CT). The purpose of the meetings is to review project topics for study.

**DATES:**

Monday, September 20, 2021, at 3:30 p.m. (CT)

Monday, October 18, 2021, at 3:30 p.m. (CT)

*Public Web Conference Link* (video and audio): *https://bit.ly/2UmmCAX*; password, if needed: USCCR.

*If joining by phone only, dial:* 1–800–360–9505; access code: 199 628 0606#.

**FOR FURTHER INFORMATION CONTACT:** Mallory Trachtenberg at *mtrachtenberg@usccr.gov* or by phone at (202) 809–9618.

**SUPPLEMENTARY INFORMATION:** The meetings are available to the public through the web link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with conference details found through registering at the web link above. To request other accommodations, please email *mtrachtenberg@usccr.gov* at least 7 days prior to the meeting for which accommodations are requested.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

**Agenda**

*Monday, September 20, 2021, at 3:30 p.m. (CT) and Monday, October 18, 2021, at 3:30 p.m. (CT)*

I. Welcome and Roll Call
II. Announcements and Updates
III. Approval of Minutes
IV. Project Topics Discussion
V. Public Comment
VI. Next Steps
VII. Adjournment

Dated: August 18, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021–17987 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

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

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

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

**SUPPLEMENTARY INFORMATION:**

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

[7/23/2021 through 8/16/2021]

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| R.E.C. Manufacturing Corporation | 50 Mellen Street, Hopedale, MA 01747 | 7/23/2021 | The firm manufactures miscellaneous plastic parts. |
| Burkart Phelan, Inc | 2 Shaker Road, Shirley, MA 01464 | 7/26/2021 | The firm manufactures flutes and piccolos as well as headjoints for flutes and piccolos. |
| Dynamic NC Aerospace Holdings, LLC d/b/a Dynamic NC, LLC. | 16531 SW 190th Street, Rose Hill, KS 67133. | 7/28/2021 | The firm manufactures aerospace parts. |
| LDM Manufacturing, Inc | 20 Hultenius Street, Plainville, CT 06062 | 7/28/2021 | The firm manufactures miscellaneous metal and plastic parts. |
| Bardons & Oliver, Inc | 5800 Harper Road, Solon, OH 44139 | 8/3/2021 | The firm manufactures metalworking machine tools and parts. |
| Kessington, LLC | 1020 County Road 6 West, Elkhart, IN 46514. | 8/6/2021 | The firm manufactures aerospace parts. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten

(10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Bryan Borlik,**

*Director.*

[FR Doc. 2021–18046 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–602–809]**

### Certain Hot-Rolled Steel Flat Products From Australia: Final Results of Antidumping Duty Administrative Review and Final Rescission of Review, in Part; 2018–2019

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

**SUMMARY:** The Department of Commerce (Commerce) determines that sales of certain hot-rolled steel flat products (hot-rolled steel) from Australia were made at less than normal value during the period of review (POR), October 1, 2018, through September 30, 2019.

**DATES:** Applicable August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2805.

**SUPPLEMENTARY INFORMATION:**

#### Background

On February 23, 2021, Commerce published the *Preliminary Results* of the 2018–2019 administrative review of the antidumping duty order on hot-rolled steel from Australia in the **Federal Register**.[1] This review covers one producer/exporter of subject merchandise, the collapsed entity, BlueScope Steel (AIS) Pty Ltd., BlueScope Steel Ltd., and BlueScope Steel Distribution Pty Ltd. (collectively, BlueScope). We invited interested parties to comment on the *Preliminary Results* and received case and rebuttal briefs.[2] On May 18, 2021, Commerce extended the deadline for the final results of review by 60 days to no later than August 20, 2021.[3] A complete summary of the events that occurred since publication of the *Preliminary Results* is found in the Issues and Decision Memorandum.[4] Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

#### Scope of the Order

The products covered by this *Order*[5] are hot-rolled steel. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by interested parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum is available at *http://enforcement.trade.gov/frn/.*

#### Rescission of Review in Part

As stated in the *Preliminary Results,* Commerce inadvertently included as subject to the review, a U.S. company, *i.e.,* AJU Steel USA Inc., for which a review should not have been initiated. We received no comments from interested parties with respect to Commerce's intent to rescind the review with respect to AJU Steel USA Inc. Therefore, we are rescinding this administrative review, in part, with respect to AJU Steel USA Inc.

#### Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made certain changes for these final results of review.

#### Final Results of the Administrative Review

We determine that the following weighted-average dumping margin exists for the period October 1, 2018, through September 30, 2019:

| Exporter/producer | Weighted-average dumping margin (percent) |
|---|---|
| BlueScope Steel (AIS) Pty Ltd, BlueScope Steel Ltd., and BlueScope Steel Distribution Pty Ltd | 9.94 |

#### Disclosure

We intend to disclose the calculations performed in connection with these final results to parties in this proceeding within five days after public announcement of the final results, in accordance with 19 CFR 351.224(b).

#### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1),

[1] *See Certain Hot-Rolled Steel Flat Products from Australia: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review, in Part; 2018–2019* 86 FR 10923 (February 23, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] The petitioners in this review are United States Steel Corporation, AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc. *See* Petitioners' Letter, ''Hot-Rolled Steel Flat Products from Australia: Petitioners' Case Brief,'' dated March 25, 2021; *see also* BlueScope's Letter, ''Case Brief of BlueScope Steel Ltd: Certain Hot-Rolled Steel Products from Australia,'' dated March 25, 2021; the Petitioners' Letter, ''Hot-Rolled Steel Flat Products from Australia: Petitioners' Rebuttal Brief,'' dated April 6, 2021; and BlueScope's Letter, ''Rebuttal Brief of BlueScope Steel Ltd: Certain Hot-Rolled Steel Products from Australia,'' dated April 6, 2021.

[3] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from Australia: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2018–2019,'' dated May 18, 2021.

[4] *See* Memorandum, ''Hot Rolled Steel Flat Products from Australia: Decision Memorandum for Final Results of Antidumping Duty Administrative Review; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016) (*Order*).

Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For BlueScope, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[6] Where an importer-specific assessment rate is zero or *de minimis,* the entries by that importer will be liquidated without regard to antidumping duties. For entries of subject merchandise during the POR produced by BlueScope for which it did not know the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[7]

For any suspended entries of hot-rolled steel from AJU Steel USA Inc., we will instruct CBP to assess antidumping duties at the rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse for consumption.

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

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication in the **Federal Register** of this notice for all shipments of hot-rolled steel from Australia entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for BlueScope will be equal to the weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 29.58 percent, the all-others rate established in the less-than-fair-value investigation.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

**Notification Regarding Administrative Protective Orders**

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

**Notification to Interested Parties**

We are issuing and publishing these results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221.

Dated: August 17, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix—List of Topics Discussed in the Issues and Decision Memorandum**



[FR Doc. 2021–18088 Filed 8–20–21; 8:45 am]

BILLING CODE 3510–DS–P

[6] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[7] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–909, A–821–826, A–823–819]**

### Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the Republic of Korea, the Russian Federation, and Ukraine: Antidumping Duty Orders

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

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty orders on seamless carbon and alloy steel standard, line, and pressure pipe (seamless pipe) from the Republic of Korea (Korea), the Russian Federation (Russia), and Ukraine.

**DATES:** Applicable August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joshua DeMoss (Korea), Mark Hoadley (Russia), or Lilit Astvatsatrian (Ukraine) AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3362, (202) 482–3148, or (202) 482–6412, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on July 2, 2021, Commerce published in the **Federal Register** its affirmative final determinations in the less-than-fair-value investigations of seamless pipe from Korea, Russia, and Ukraine.[1] On August 16, 2021, the ITC notified Commerce of its affirmative final determinations that an industry in the United States is materially injured, within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of the less-than-fair-value imports of seamless pipe from Korea, Russia, and Ukraine.[2]

## Scope of the Orders

The merchandise covered by these orders is seamless pipe from Korea, Russia, and Ukraine. For a complete description of the scope of these orders, see the appendix to this notice.

## Antidumping Duty Orders

Given Commerce's affirmative final determinations, as noted above, and notification from the ITC, in accordance with section 735(d) of the Act, of its final determinations in these investigations, in which it found that an industry in the United States is materially injured, within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of imports of seamless pipe from Korea, Russia, and Ukraine,[3] Commerce is issuing antidumping duty orders on seamless pipe from Korea, Russia, and Ukraine. Because the ITC determined that imports of seamless pipe from Korea, Russia, and Ukraine are materially injuring a U.S. industry, unliquidated entries of subject merchandise from Korea, Russia, and Ukraine, that was entered into the United States, or withdrawn from warehouse, for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instructions by Commerce, antidumping duties equal to the amount by which the normal value of the foreign like product exceeds the export price (or constructed export price) of subject merchandise, for all relevant entries of seamless pipe from Korea, Russia, and Ukraine. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations in the **Federal Register**, as further described below, antidumping duties will be assessed on unliquidated entries of seamless pipe from Korea, Russia, and Ukraine entered, or withdrawn from warehouse, for consumption, on or after February 10, 2021, the date of publication of the *Preliminary Determinations*.[4]

## Continuation of Suspension of Liquidation

In accordance with section 736 of the Act, Commerce intends to instruct CBP to continue to suspend liquidation of all relevant entries of seamless pipe from Korea, Russia, and Ukraine. These instructions suspending liquidation will remain in effect until further notice. Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time that importers would normally deposit estimated duties on the merchandise, a cash deposit equal to the rates listed below. The relevant all-others rates apply to all producers or exporters not specifically listed.

## Provisional Measures

Section 733(d) of the Act states that the instructions issued under section 733(d)(1) and (2) of the Act pursuant to an affirmative preliminary determination, may not remain in effect for more than four months, except that Commerce may extend the four-month period to no more than six months at the request of exporters representing a significant proportion of exports of the subject merchandise. At the request of exporters that account for a significant proportion of seamless pipe from Korea, Russia, and Ukraine, Commerce extended the four-month period in each of these investigations. Commerce published the *Preliminary Determinations* in these investigations in the **Federal Register** on February 10, 2021.[5]

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations,* ended on August 8, 2021. Therefore, in accordance with section 733(d) of the Act and its practice,[6] Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of seamless pipe from Korea, Russia, and Ukraine entered, or withdrawn from warehouse, for consumption after August 8, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

## Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

*Korea:*

[1] *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 35274 (July 2, 2021); *see also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Russian Federation: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 35269 (July 2, 2021); and *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Ukraine: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 35272 (July 2, 2021).

[2] *See* Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Korea, Russia, and Ukraine, USITC Investigation Nos. 701–TA–654–655 and 731–TA–1530–1532 (Final) (August 16, 2021).

[3] *Id.*

[4] *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 8887 (February 10, 2021); *see also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Russian Federation: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 8891 (February 10, 2021); and *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Ukraine: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 8889 (February 10, 2021) (collectively, *Preliminary Determinations*).

[5] *Id.*

[6] *See, e.g., Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390, 48392 (July 25, 2016).

| Exporter/producer | Estimated weighted-average dumping margin (percent) | Cash deposit rate (adjusted for subsidy offset) (percent) [7] |
|---|---|---|
| ILJIN Steel Corporation | 4.48 | 4.44 |
| All Others | 4.48 | 4.44 |

*Russia:*

| Exporter/producer | Estimated weighted-average dumping margin (percent) |
|---|---|
| PAO TMK and Volzhsky Pipe Plant Joint Stock Company (collectively, TMK) | 209.72 |
| All Others | 209.72 |

*Ukraine:*

| Exporter/producer | Estimated dumping margin (percent) |
|---|---|
| Interpipe Ukraine LLC/PJSC Interpipe Niznedneprovksy Tube Rolling Plant/LLC Interpipe Niko Tube | 23.75 |
| All Others | 23.75 |

## Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to seamless pipe from Korea, Russia, and Ukraine pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

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

Dated: August 17, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix—Scope of the Orders

The merchandise covered by the scope of the orders is seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in nominal outside diameter, regardless of wall-thickness, manufacturing process (*e.g.,* hot finished or cold-drawn), end finish (*e.g.,* plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (*e.g.,* bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or ''hollow profiles'' suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials (ASTM) or American Petroleum Institute (API) specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, ASTM A–1024, and the API 51 specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusions discussed below.

Specifically excluded from the scope of the orders are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications, including pipe produced to the ASTM A–822 standard; (2) all pipes meeting the chemical requirements of ASTM A–335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of the orders are (1) all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.,* outside diameter and wall thickness, of ASTM A53, ASTM A–106 or API 51 specifications. Also excluded from the scope of the orders are: (1) Oil country tubular goods consisting of drill pipe, casing, tubing and coupling stock; (2) all pipes meeting the chemical requirements of ASTM A–335 regardless of their conformity to the dimensional requirements of ASTM A–53, ASTM A–106 or API 5L; and (3) the exclusion for ASTM A335 applies to pipes meeting the comparable specifications GOST 550–75.

Subject seamless standard, line, and pressure pipe are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

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[7] In the companion countervailing duty (CVD) investigation, Commerce calculated a 0.04 percent export subsidy rate for ILJIN Steel Corporation. *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 86 FR 35267 (July 2, 2021), and accompanying Issues and Decision Memorandum.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–489–826]**

## Certain Hot-Rolled Steel Flat Products From the Republic of Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

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

**SUMMARY:** The Department of Commerce (Commerce) determines that certain hot-rolled steel flat products from the Republic of Turkey (Turkey) were sold at less than normal value during the period of review (POR), October 1, 2018, through September 30, 2019. In addition, Commerce determines that six exporters had no shipments during the POR.

**DATES:** Applicable August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Lingjun Wang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2316.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 24, 2021, Commerce published the *Preliminary Results* of this review.[1] We invited interested parties to comment on the *Preliminary Results.* On March 26, 2021, AK Steel Corporation (a petitioner in the underlying less-than-fair-value investigation [2]) and Cleveland-Cliffs Steel LLC (collectively, the domestic producers) filed a case brief.[3] The domestic producers also filed a rebuttal brief on April 2, 2021.[4] The sole mandatory respondent, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas), filed a case brief on March 26, 2021.[5]

On June 17, 2021, and July 21, 2021, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the time period for issuing these final results until August 20, 2021.[6]

We initiated this review on thirteen companies,[7] including Colakoglu Metalurji, A.S. and Colakoglu Dis Ticaret A.S. (collectively, Colakoglu), which we had collapsed as a single entity in the underlying less-than-fair-value investigation.[8] Based on the final judgment of the U.S. Court of International Trade (CIT) in litigation associated with the underlying investigation, subject merchandise produced and exported by Colakoglu was excluded from the *Order.*[9] Consequently, Commerce discontinued this review with respect to the subject merchandise produced and exported by Colakoglu, but not subject merchandise (1) produced by Colakoglu and exported by another company; or (2) produced by another company and exported by Colakoglu.[10] Accordingly, these final results cover thirteen companies including Habas, six non-examined companies, including Colakoglu, and six no-shipments companies.

### Scope of the Order

The merchandise covered by the *Order* is certain hot-rolled steel flat products. For a complete description of the scope of this *Order, see* the Issues and Decision Memorandum.[11]

### Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that six exporters had no shipments of the subject merchandise during the POR: (1) Agir Haddecilik A.S. (Agir); (2) Eregli Demir ve Celik Fabrikalari T.A.S. and (3) Iskenderun Iron & Steel Works Ltd. (a/k/a/ Iskenderun Demir ve Celik A.S.) (collectively, Erdemir Group); (4) Gazi Metal Mamulleri Sanayi ve Ticaret A.S.(Gazi); (5) Seametal Sanayi ve Dis Ticaret Limited Sirketi (Seametal) [12]; and (6) Tosyali Holding (Toscelik Profile and Sheet Ind. Co., Toscelik Profil ve Sac A.S.).

We received no comments that were contrary to our preliminary findings with respect to those companies. Therefore, we continue to find that those exporters made no shipments of subject merchandise during the POR. Accordingly, consistent with our practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of subject merchandise associated with these companies consistent with Commerce's reseller policy.[13]

### Analysis of the Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum, which is hereby adopted with this notice. A list of these issues is attached in an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

### Changes Since the Preliminary Results

Based on our analysis of the comments received, we made two changes to the *Preliminary Results.* For a full discussion of these changes, *see* the Issues and Decision Memorandum.

### Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the

[1] *See Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 86 FR 11227 (February 24, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See Preliminary Results* PDM at 2.

[3] *See* Domestic Producers' Letter, ''Hot-Rolled Steel Flat Products from Turkey: Petitioners' Case Brief,'' dated March 26, 2021.

[4] *See* Domestic Producers' Letter, ''Hot-Rolled Steel Flat Products from Turkey: Petitioners' Rebuttal Brief,'' dated April 2, 2021.

[5] *See* Habas' Letter, ''Hot-Rolled Steel Flat Products from Turkey; Habaş Case Brief,'' dated March 26, 2021 (Habas Case Brief).

[6] *See* Memorandum, ''Hot-Rolled Steel Flat Products from the Republic of Turkey: Antidumping Duty Administrative Review; 2018–2019, Extension of Deadline for Final Results,'' dated June 17, 2021; *see also* Memorandum, ''Hot-Rolled Steel Flat Products from the Republic of Turkey: Antidumping Duty Administrative Review; 2018–2019, Extension of Deadline for Final Results,'' dated July 21, 2021.

[7] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 67712 (December 11, 2019).

[8] *See Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value,* 81 FR 53428 (August 12, 2016).

[9] *See Certain Hot-Rolled Steel Flat Products from Turkey: Notice of Court Decision Not in Harmony with the Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination, Amended Antidumping Duty Order, Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of the 2017–18 and 2018–19 Antidumping Duty Administrative Reviews, in Part,* 85 FR 29399 (May 15, 2020) (*Timken Notice*); *see also Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016) (*Order*).

[10] *See Preliminary Results,* 86 FR at 11228 (citing *Timken Notice,* 85 FR at 29400).

[11] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from Republic of Turkey; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[12] In Commerce's *Initiation Notice,* this company was referred to as Seametal San ve Dis Tic. The two names refer to the same company.

[13] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

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

For these final results, we calculated a weighted-average dumping margin that is not zero, *de minimis,* or determined entirely on the basis of facts available for Habas, our sole mandatory respondent. Accordingly, we have determined the weighted-average dumping margin for the non-individually examined companies to be equal to the weighted-average dumping margin calculated for Habas.

**Final Results of the Review**

Commerce determines that the following weighted-average dumping margins exist for the period October 1, 2018, through September 30, 2019:

| Producer or exporter | Weighted-average dumping margin (percent) |
|---|---|
| Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S | 24.32 |
| **Review-Specific Average Rate Applicable to the Following Companies:** | |
| Cag Celik Demir ve Celik | 24.32 |
| Colakoglu Metalurji, A.S./Colakoglu Dis Ticaret A.S.[14] | 24.32 |
| Habas Industrial and Medical Gases Production Industries Inc | 24.32 |
| MMK Atakas Metalurji | 24.32 |
| Ozkan Iron and Steel Ind | 24.32 |

**Disclosure**

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

**Assessment of Antidumping Duties**

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Consistent with its recent notice,[15] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the CIT, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

For Habas, Commerce has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of the importer and dividing these amounts by the total entered value associated with those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the non-examined companies, we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to each company's weighted-average dumping margin.

For entries of subject merchandise during the POR produced by Habas where it did not know that its merchandise was destined for the United States, and for all entries attributed to the companies which we have found to have had no shipments during the POR, we will instruct CBP to liquidate such unreviewed entries pursuant to the reseller policy,[16] *i.e.,* the assessment rate for such entries will be equal to the all-others rate established in the investigation (*i.e.,* 2.73 percent),[17] if there is no rate for the intermediate company(ies) involved in the transaction.

**Cash Deposit Requirements**

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be equal to each company's weighted-average dumping margin established in the final results of this review, (except if the *ad valorem* rate is *de minimis,* in which case the cash deposit rate will be zero); (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the underlying investigation, but the producer is, then the cash deposit rate will be the company-specific rate established for the completed segment for the most recent POR for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.73 percent, the all-others rate established in the underlying investigation.

These deposit requirements, when imposed, shall remain in effect until further notice.

[14] This rate applies only for certain hot-rolled flat products produced in Turkey where Colakoglu acted as either the producer or exporter but not both.

[15] *See Notice of Discontinuation Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

[16] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[17] *See Timken Notice,* 85 FR at 29400.

### Notification to Importers

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

### Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

### Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: August 17, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

### Appendix—List of Topics Discussed in the Issues and Decision Memorandum



[FR Doc. 2021–18057 Filed 8–20–21; 8:45 am]

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**[C–580–910, C–821–827]**

## Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the Republic of Korea and the Russian Federation: Countervailing Duty Orders

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

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing countervailing duty (CVD) orders on seamless carbon and alloy steel standard, line, and pressure pipe (seamless pipe) from the Republic of Korea (Korea) and the Russian Federation (Russia).

**DATES:** Applicable August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Caitlin Monks (Russia), or Moses Song and Natasia Harrison (Korea), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitutions Avenue NW, Washington DC 20230; telephone: (202) 482–2670, (202) 482–7885, or (202) 482–1240, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on July 2, 2021, Commerce published in the **Federal Register** its affirmative final determinations in the CVD investigations of seamless pipe from Korea and Russia.[1] On August 16, 2021, the ITC notified Commerce of its affirmative final determinations, pursuant to section 705(d) of the Act, that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of seamless pipe from Korea and Russia.[2]

### Scope of the Orders

The merchandise covered by these orders is seamless pipe from Korea and Russia. For a complete description of the scope of these orders, *see* the appendix to this notice.

### Countervailing Duty Orders

In accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC has notified Commerce of its final determinations that the industry in the United States producing seamless pipe is materially injured by reason of subsidized imports of seamless pipe from Korea and Russia. Therefore, in accordance with section 705(c)(2) of the Act, we are issuing these CVD orders. Because the ITC determined that imports of seamless pipe from Korea and Russia are materially injuring a U.S. industry, unliquidated entries of such merchandise from Korea and Russia, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Countervailing duties will be assessed on unliquidated entries of seamless pipe from Korea and Russia entered, or withdrawn from warehouse, for consumption on or after December 11, 2020, the date of publication of the preliminary determinations,[3] but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described below.

### Continuation of Suspension of Liquidation and Cash Deposits

In accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of seamless pipe from Korea and Russia in an amount equal to the net countervailable subsidy rates for the subject merchandise. On or after the publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash deposits for each

[1] *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 86 FR 35267 (July 2, 2021); *see also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Russian Federation: Final Affirmative Countervailing Duty Determination,* 86 FR 35263 (July 2, 2021).

[2] *See* ITC's Letter, ''Notification of ITC Final Determinations,'' dated August 16, 2021; *see also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Korea, Russia, and Ukraine,* ITC Investigation Nos. 701–TA–654–655 and 731–TA–1530–1532 (August 16, 2021).

[3] *See Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 80024 (December 11, 2020); *see also Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Russian Federation: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 80007 (December 11, 2020) (*Russia Preliminary Determination*).

entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice.

Korea:

| Exporter/producer | Subsidy rate (*ad valorem*) |
|---|---|
| ILJIN Steel Corporation | 1.78 |
| All Others | 1.78 |

Russia:

| Exporter/producer | Subsidy rate (*ad valorem*) |
|---|---|
| PAO TMK/Volzhsky Pipe Plant Joint Stock Company[4] | 48.38 |
| All Others | 48.38 |

**Provisional Measures**

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the preliminary determinations on December 11, 2020. As such, the four-month period beginning on the date of the publication of the preliminary determinations ended on April 9, 2021. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 703(d) of the Act, we have instructed CBP to discontinue the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of seamless pipe from Korea and Russia, entered, or withdrawn from warehouse, for consumption, on or after April 10, 2021, the day after provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

**Notification to Interested Parties**

This notice constitutes the CVD orders with respect to seamless pipe from Korea and Russia, pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

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

Dated: August 18, 2021.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations.*

**Appendix—Scope of the Orders**

The merchandise covered by the scope of these orders is seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in nominal outside diameter, regardless of wall-thickness, manufacturing process (*e.g.,* hot-finished or cold-drawn), end finish (*e.g.,* plain end, beveled end, upset end, threaded, or threaded and coupled), of surface finish (*e.g.,* bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or ''hollow profiles'' suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials (ASTM) or American Petroleum Institute (API) specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–589, ASTM A–795, ASTM A–1024, and API 51 specification, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusions discussed below.

Specifically excluded from the scope of the orders are: (1) All pipes meeting aerospace, hydraulic, and bearing tubing specifications, including pipe produced to the ASTM A–822 standard; (2) all pipes meeting the chemical requirements of ASTM A–335, whether finished or unfinished; and (3) unattached couplings. Also excluded from the scope of the orders are all mechanical, boiler, condenser and heat exchange tubing, except when such products conform to the dimensional requirements, *i.e.,* outside diameter and wall thickness, or ASTM A–53, ASTM A–106 or API 51 specification. Also excluded from the scope of the orders are: (1) Oil country tubular goods consisting of drill pipe, casing, tubing and coupling stock; (2) all pipes meeting the chemical requirements of ASTM A–53, ASTM A–106 or API 5L; and (3) the exclusion for ASTM A–335 applies to pipes meeting the comparable specifications GOST 550–75.

Subject seamless standard, line, and pressure pipe are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

[FR Doc. 2021–18188 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–DS–P**

[4] Commerce found the following companies to be cross-owned with PAO TMK and Volzhsky Pipe Plant Joint Stock Company: Sinarsky Pipe Plant; Taganrog Metallurgical Plant Joint Stock Company; Sinarsky Pipe Plant Joint Stock Company; Seversky Pipe Plant Joint Stock Company; TMK CHERMET LLC; TMK CHERMET LLC Volzhsky; TMK CHERMET LLC Ekaterinburg; TMK CHERMET LLC Rostov; TMK CHERMET LLC Saratov; and TMK CHERMET LLC Service. *See Russia Preliminary Determination* PDM at 2–3 and 9–10.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB278]**

### Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

**ACTION:** Notice of public workshops.

**SUMMARY:** Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in October, November, and December of 2021. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2022 and will be announced in a future notice. In addition, NMFS anticipates the implementation of online recertification workshops beginning in the fall of 2021 for persons who have already taken in-person training. Affected permit holders will be notified of this option when it becomes available.

**DATES:** The Atlantic Shark Identification Workshops will be held on October 7, November 18, and December 9, 2021. The Safe Handling, Release, and Identification Workshops will be held on October 13, October 26, November 2, November 9, December 2, and December 30, 2021. See **SUPPLEMENTARY INFORMATION** for further details.

**ADDRESSES:** The Atlantic Shark Identification Workshops will be held in Harvey, LA; Mount Pleasant, SC; and Largo, FL. The Safe Handling, Release, and Identification Workshops will be held in Ocean City, MD; Largo, FL; Revere, MA; Kitty Hawk, NC; Kenner, LA; and Key Largo, FL. See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

**FOR FURTHER INFORMATION CONTACT:** Rick Pearson by phone: (727) 824–5399, or by email at *rick.a.pearson@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** Atlantic highly migratory species (HMS) fisheries are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan and its amendments are implemented by regulations at 50 CFR part 635. Section 635.8 describes the requirements for the Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops. The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are posted online at: *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.*

## Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2018 will expire in 2021. Approximately 186 free Atlantic Shark Identification Workshops have been conducted since October 2008.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate must be in any trucks or other conveyances that are extensions of a dealer's place of business.

*Workshop Dates, Times, and Locations*

1. October 7, 2021, 12 p.m.–4 p.m., Hampton Inn, 1651 5th Street, Harvey, LA 70058.

2. November 18, 2021, 12 p.m.–4 p.m., Hampton Inn, 1104 Isle of Palms Connector, Mount Pleasant, SC 29464.

3. December 9, 2021, 12 p.m.–4 p.m., Hampton Inn, 100 East Bay Drive, Largo, FL 33770.

*Registration*

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at (386) 852–8588. Pre-registration is highly recommended, but not required.

*Registration Materials*

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

*Workshop Objectives*

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

## Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2018 will expire in 2021. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 382 free Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits on which longline or gillnet gear is used.

*Workshop Dates, Times, and Locations*

1. October 13, 2021, 9 a.m.–5 p.m., Residence Inn, 300 Seabay Lane, Ocean City, MD 21842.

2. October 26, 2021, 9 a.m.–5 p.m., Holiday Inn Express, 210 Seminole Boulevard, Largo, FL 33770.

3. November 2, 2021, 9 a.m.–5 p.m., Hampton Inn, 230 Lee Burbank Highway, Revere, MA, 02151.

4. November 9, 2021, 9 a.m.–5 p.m., Hilton Garden Inn, 5353 North Virginia Dare Trail, Kitty Hawk, NC 27949.

5. December 2, 2021, 9 a.m.–5 p.m., Hilton Hotel, 901 Airline Drive, Kenner, LA 70062.

6. December 30, 2021, 9 a.m.–5 p.m., Holiday Inn, 99701 Overseas Highway, Key Largo, FL 33037.

*Registration*

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158. Pre-registration is highly recommended, but not required.

*Registration Materials*

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification;
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and
- Vessel operators must bring proof of identification.

*Workshop Objectives*

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

*Online Recertification Workshops*

NMFS anticipates the implementation of online recertification workshops beginning in the fall of 2021 for persons who have already taken in-person training. Affected permit holders will be notified of this option when it becomes available.

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

Dated: August 18, 2021.

**Kelly Denit,**

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

[FR Doc. 2021–18021 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB343]**

### South Atlantic Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meetings of the South Atlantic Fishery Management Council.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold meetings of the following: Snapper Grouper Committee; Dolphin Wahoo Committee; Mackerel Cobia Committee; and Habitat and Ecosystem-Based Management Committee. The meeting week will also include a formal public comment session and a meeting of the Full Council.

**DATES:** The Council meeting will be held from 1 p.m. on Monday, September 13, 2021, until 12 p.m. on Friday, September 17, 2021. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** *Meeting address:* The meeting will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; phone: (884) 201–3033. The meeting will also be available via webinar. Registration is required. Details are included in **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, SAFMC; phone: (843) 302–8440 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

**SUPPLEMENTARY INFORMATION:** Meeting information, including agendas, overviews, and briefing book materials will be posted on the Council's website at: *http://safmc.net/safmc-meetings/council-meetings/.* Webinar registration links for the meeting will also be available from the Council's website.

*Public comment:* Public comment on items on this agenda may be submitted through the Council's online comment form available from the Council's website at: *http://safmc.net/safmc-meetings/council-meetings/.* Comments will be accepted from August 30, 2021, until September 17, 2021. These comments are accessible to the public, part of the Administrative Record of the meeting, and immediately available for Council consideration.

The items of discussion in the individual meeting agendas are as follows:

**Council Session I, Monday, September 13, 2021, 1 p.m. Until 5:30 p.m.**

The Council will receive reports from state agencies, Council liaisons, NOAA Office of Law Enforcement, and the U.S. Coast Guard. The Council will receive updates on the Council's Citizen Science Program, outreach and communications efforts, development of the Allocations Decision Tool, the Acceptable Biological Catch (ABC) Control Rule, the Atlantic Large Whale Take Reduction Plan, and additional topics as needed.

**Snapper Grouper Committee, Tuesday, September 14, 2021, 8:30 a.m. Until 5:30 p.m. and Wednesday, September 15, 2021, 8:30 a.m. Until 12 p.m.**

The Committee will receive an overview of the current two-for-one permit requirement for the South Atlantic Unlimited Snapper Grouper Commercial Fishing Permit and review comments from the Snapper Grouper Advisory Panel (AP). The committee will also receive an overview proposed modifications to greater amberjack management through Amendment 49 to the Snapper Grouper Fishery Management Plan (FMP) and review recommendations from the Snapper Grouper AP. The Committee will review recommendations from the Snapper Grouper AP on proposed management measures for snowy grouper through Snapper Grouper Amendment 51 and consider approving the amendment for public scoping. Snapper Grouper Amendment 44 addressing yellowtail snapper management measures will also be reviewed and considered for scoping approval.

The Committee will review recommendations from its Scientific and Statistical Committee regarding red snapper management and review an

options paper addressing short-term management measures. The Committee will review proposed measures for the wreckfish fishery through Snapper Grouper Amendment 48 and modifications to red porgy management through Snapper Grouper Amendment 50. The Committee will receive guidance on rebuilding options from NOAA Fisheries for gag grouper, discuss vermilion snapper trip limits, receive an update on the South Atlantic Red Snapper Count and the Greater Amberjack Count in the South Atlantic and Gulf of Mexico, discuss topics for the next meeting of the Snapper Grouper AP, and receive a brief on an Exempted Fishing Permit (EFP) application.

**Dolphin Wahoo Committee, Wednesday, September 15, 2021, 1:30 p.m. Until 3:45 p.m.**

The Committee will receive an update on the status of Amendment 10 to the Dolphin Wahoo FMP. The Amendment includes actions addressing: Revisions to recreational data and catch level recommendations; modifications to recreational accountability measures; measures to allow properly permitted commercial vessels with trap, pot or buoy gear on board to possess commercial quantities of dolphin and wahoo; removal of the current Operator Card requirement; and reductions in the recreational vessel limit for dolphin. The Council approved the amendment for Secretarial review during its June 2021 meeting. The Committee will also consider management measures to include in a future framework amendment.

*Formal Public Comment, Wednesday, September 15, 2021, 4 p.m.*—Public comment will be accepted from individuals attending the meeting on all items on the Council meeting agenda. The Council will be accepting public hearing comments on Amendment 50 to the Snapper Grouper FMP addressing management measures for red porgy.

The Council Chair will determine the amount of time provided to each commenter based on the number of individuals wishing to comment.

**Mackerel Cobia Committee, Thursday, September 16, 2021, 8:30 a.m. Until 12 p.m.**

The Committee will review Coastal Migratory Pelagics (CMP) Amendment 34 addressing management measures for Atlantic king mackerel in the South Atlantic and Gulf of Mexico and CMP Amendment 32 addressing management measures to end overfishing for Gulf of Mexico cobia. Both amendments will be considered for public hearing approval.

**Habitat Protection and Ecosystem-Based Management Committee, Thursday, September 16, 2021, 1:30 p.m. Until 3 p.m.**

The Committee will review Amendment 10 to the Coral FMP, which would establish a shrimp fishery access area for the deepwater shrimp fishery along the Oculina Bank Habitat Area of Particular Concern and consider approving the amendment for Secretarial Review. The Committee will also receive an update on the Habitat and Ecosystem Blueprint and discuss topics for the next meeting of the Habitat Protection and Ecosystem-Based Management AP.

**Council Session II, Thursday, September 16, 2021, From 3 p.m. Until 5:30 p.m., and Friday, September 17, 2021, 8:30 a.m. Until 12 p.m.**

The Council will present the 2020 Law Enforcement Officer of the Year Award and hold elections of the Chair and Vice-Chair.

The Council will receive an update from NOAA Fisheries Office of Protected Resources, review the Exempted Fishing Permit request, review the FMP Workplan, receive a staff report from the Executive Director and an update on Climate Change Scenario Planning. The Council will receive reports from NOAA Fisheries Southeast Fisheries Science Center and from the Southeast Regional Office.

The Council will receive reports from the following committees: Snapper Grouper; Dolphin Wahoo; Mackerel Cobia; and Habitat Protection and Ecosystem-Based Management.

The Council will discuss other business, upcoming meetings, and take action as necessary.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

*Special Accommodations*

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

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

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

Dated: August 18, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–17991 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB347]**

### Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will hold a one day in-person and virtual meeting (hybrid) of its Ecosystem Technical Committee (ETC).

**DATES:** The meeting will take place Friday, September 10, 2021, 8:30 a.m.–5 p.m., EDT.

**ADDRESSES:** The in-person meeting will take place at the Gulf Council office. If you prefer not to travel at this time, you may attend via webinar. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the Ecosystem Technical Committee meeting on the calendar.

*Council address:* Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

**FOR FURTHER INFORMATION CONTACT:** Dr. Natasha Mendez-Ferrer, Fishery Biologist, Gulf of Mexico Fishery Management Council; *natasha.mendez@gulfcouncil.org,* telephone: (813) 348–1630.

**SUPPLEMENTARY INFORMATION:**

**Friday, September 10, 2021; 8:30 a.m. Until 5 p.m.; EDT**

The meeting will begin with Introductions and Adoption of Agenda, Approval of Minutes from the March 2, 2020 meeting and review of Scope of Work with its members.

The ETC will receive a Mid-Term Project Summary on the Overview of Fisheries Ecosystem Planning (FEP),

Defining Fishery Ecosystem Issues, review indicators and data visualization, and discuss ETC recommendations.

The ETC will review Case Studies and Lessons Learned from other FEP efforts and provide recommendations. They will receive an Update on Stakeholder Mapping, Engagement and Mental Modelling and receive a Status Update on the Council Coordination Committee (CCC) Subcommittee on Area-Based Management; and will then provide recommendations.

The ETC will receive public comment; and discuss any Other Business items.

—*Meeting Adjourns*

The meeting will be held in-person and via webinar (hybrid). You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Ecosystem Technical Committee meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Technical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Technical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: August 18, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–17993 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB345]**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Committee via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This webinar will be held on Thursday, September 9, 2021, at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/5823477991354445582.*

**ADDRESSES:** *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

The Monkfish Committee will receive a presentation on analyses related to the Council's 2021 Monkfish Priority to ''Complete work recommended by the Council in June 2020 for including the 2019 discard information in the analysis of discard estimation methods undertaken in 2020''. They will discuss and make recommendations for 2022 Council monkfish management priorities. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 18, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–17992 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB239]**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Office of Naval Research's Arctic Research Activities in the Beaufort and Chukchi Seas (Year 4)

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

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

**SUMMARY:** NMFS has received a request from Office of Naval Research (ONR) for authorization to take marine mammals incidental to Arctic Research Activities in the Beaufort Sea and eastern Chukchi Sea. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision. ONR's activities are considered military readiness activities pursuant to the MMPA, as amended by the National

Defense Authorization Act for Fiscal Year 2004 (NDAA).

**DATES:** Comments and information must be received no later than September 22, 2021.

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

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

**FOR FURTHER INFORMATION CONTACT:** Kelsey Potlock, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the 2021–2022 IHA application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.* In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

## Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States (U.S.) citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The activity for which incidental take of marine mammals is being requested addressed here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

## National Environmental Policy Act

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

In 2018, the U.S. Navy prepared an Overseas Environmental Assessment (OEA; referred to as an EA in this document) analyzing the project. Prior to issuing the IHA for the first year of this project, we reviewed the 2018 EA and the public comments received, determined that a separate NEPA analysis was not necessary, and subsequently adopted the document and issued our own Finding of No Significant Impact (FONSI) in support of the issuance of an IHA (83 FR 48799; September 27, 2018).

In 2019, the U.S. Navy prepared a supplemental EA. Prior to issuing the IHA in 2019, we reviewed the supplemental EA and the public comments received, determined that a separate NEPA analysis was not necessary, and subsequently adopted the document and issued our own FONSI in support of the issuance of an IHA (84 FR 50007; September 24, 2019).

In 2020, the Navy submitted a request for a renewal of the 2019 IHA. Prior to issuing the renewal IHA, NMFS reviewed ONR's application and determined that the proposed action was identical to that considered in the previous IHA. Because no significantly new circumstances or information relevant to any environmental concerns had been identified, NMFS determined that the preparation of a new or supplemental NEPA document was not necessary and relied on the supplement EA and FONSI from 2019 when issuing the renewal IHA in 2020 (85 FR 41560; July 10, 2020).

For this proposed action, NMFS plans to adopt the Navy's 2021 supplemental EA provided our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing the IHA. The Navy's supplemental EA is available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

## Summary of Request

On June 4, 2021, NMFS received a request from ONR for an IHA to take marine mammals incidental to Arctic Research Activities in the Beaufort and eastern Chukchi Seas. ONR's 2021–2022 IHA application was deemed adequate and complete on August 4, 2021. ONR's request is for take of beluga whales (*Delphinapterus leucas;* two stocks) and ringed seals (*Pusa hispida hispida*) by Level B harassment only. Neither ONR nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

This proposed IHA would cover the fourth year of a larger project for which ONR obtained prior IHAs (83 FR 48799, September 27, 2018; 84 FR 50007, September 24, 2019; 85 FR 53333, August 28, 2020) and may request take authorization for subsequent facets of the overall project. This IHA would be valid for a period of one year from the date of issuance (early October 2021 to early October 2022). The larger project involves several scientific objectives that support the Arctic and Global Prediction Program, as well as the Ocean Acoustic Program and the Naval Research Laboratory, for which ONR is the parent command. ONR has complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHAs (83 FR 48799, September 27, 2018; 84 FR 50007, September 24, 2019; 85 FR 53333, August 28, 2020).

## Description of Proposed Activity

*Overview*

ONR's Arctic Research Activities include scientific experiments to be conducted in support of the programs named above. Specifically, the project includes the Arctic Mobile Observing System (AMOS), Ocean Acoustics field work, and Naval Research Laboratory (NRL) experiments in the Beaufort and Chukchi Seas. Project activities involve acoustic testing during cruises (two planned) and a multi-frequency navigation system concept test using left-behind active acoustic sources. More specifically, these experiments involve the deployment of moored, drifting, and ice-tethered active acoustic sources as well as a towed source (see details below on the Shallow Water Integrate Mapping System) from the Research Vessel (R/V) *Sikuliaq* and another vessel, most likely the U.S. Coast Guard Cutter (CGC) HEALY. Underwater sound from the acoustic sources may result in behavioral harassment of marine mammals.

*Dates and Duration*

This proposed action would occur from early October 2021 through early October 2022. The activities analyzed in this proposed IHA would begin in early October 2021, with a tentative sail date of October 3, 2021 using the R/V *Sikuliaq* for the first cruise. During this first cruise, several acoustic sources would be deployed from the ship. Limited at-sea testing of sources would occur. Around the same time, some of the sources previously deployed during past projects would be reactivated. These sources would stay active for around two months and then would be deactivated via satellite. In the spring of 2022, new NRL acoustic sources would be deployed by aircraft (likely a fixed-wing Twin Otter or another single-engine aircraft) and subsequently activated. These would remain active for approximately five months and then would be deactivated via satellite. During the fall of 2022, another research cruise would begin (likely using the CGC HEALY). The most likely months for this cruise would be September or October 2022.

The cruise utilizing the R/V *Sikuliaq* is estimated to consist of approximately 30 days (October 2021—October 2021) at sea. The second vessel (likely the CGC HEALY) would operate in the fall of 2022 for approximately six weeks within a two-month period (September or October 2022). However, this proposed action, if finalized, would only be valid for a period of one year, from approximately October 2021–October 2022.

During the scope of this proposed project, other activities may occur at different intervals that would assist ONR in meeting the scientific objectives of the various projects discussed above. However, these activities are designated as *de minimis* sources in ONR's 2021–2022 IHA application (consistent with analyses presented in support of previous Navy ONR IHAs), or would not produce sounds detectable by marine mammals (see discussion on *de minimis* sources below). These include the coring of bottom sediments within the project area, the deployment of weather balloons, the deployment of on-ice measurement systems to collect weather data, the deployment and use of unmanned aerial systems (UAS), the mooring and use of fixed receiving arrays (passive acoustic arrays) and oceanographic sensors, and the use and deployment of drifting oceanographic sensors.

*Specific Geographic Region*

This proposed action would occur across the U.S. Exclusive Economic Zone (EEZ) in both the Beaufort and Chukchi Seas, partially in the high seas north of Alaska, the Global Commons, and within a part of the Canadian EEZ (in which the appropriate permits would be obtained by the Navy). This proposed project area is further north from the project area that was previously considered in the first IHA (83 FR 48799, September 27, 2018), the second IHA (84 FR 50007, September 24, 2019), and the subsequent renewal to the second IHA (85 FR 53333, August 28, 2020). The proposed action would occur primarily in the Beaufort Sea; however, the Navy has included the Chukchi Sea in their 2021–2022 IHA application and analysis to account for any drifting of buoys with active sources.

The study area consists of a deep-water area approximately 110 nautical miles (nm; 204 kilometers (km)) north of the Alaska coastline. The total area of the proposed project site is 294,975 square miles ($mi^2$; 763,981 square kilometers ($km^2$)). The closest distance of any leave-behind source (where a majority of the take associated with this proposed action could occur) is 240 mi (386 km) or more from the Alaska coastline. This is exclusive to any *de minimis* sources described below in the *Detailed Description of Specific Activity.* Some other activities, such as the use of gliders, unmanned undersea vehicles (UUVs), or some on-site activities could occur closer to Alaska, around 110 mi (177 km) from the coastline; however, little take and impacts are attributed to these as they are primarily *de minimis* acoustic sources. A map of the proposed project area and the locations of the moored and deployed buoys is shown in Figure 1.

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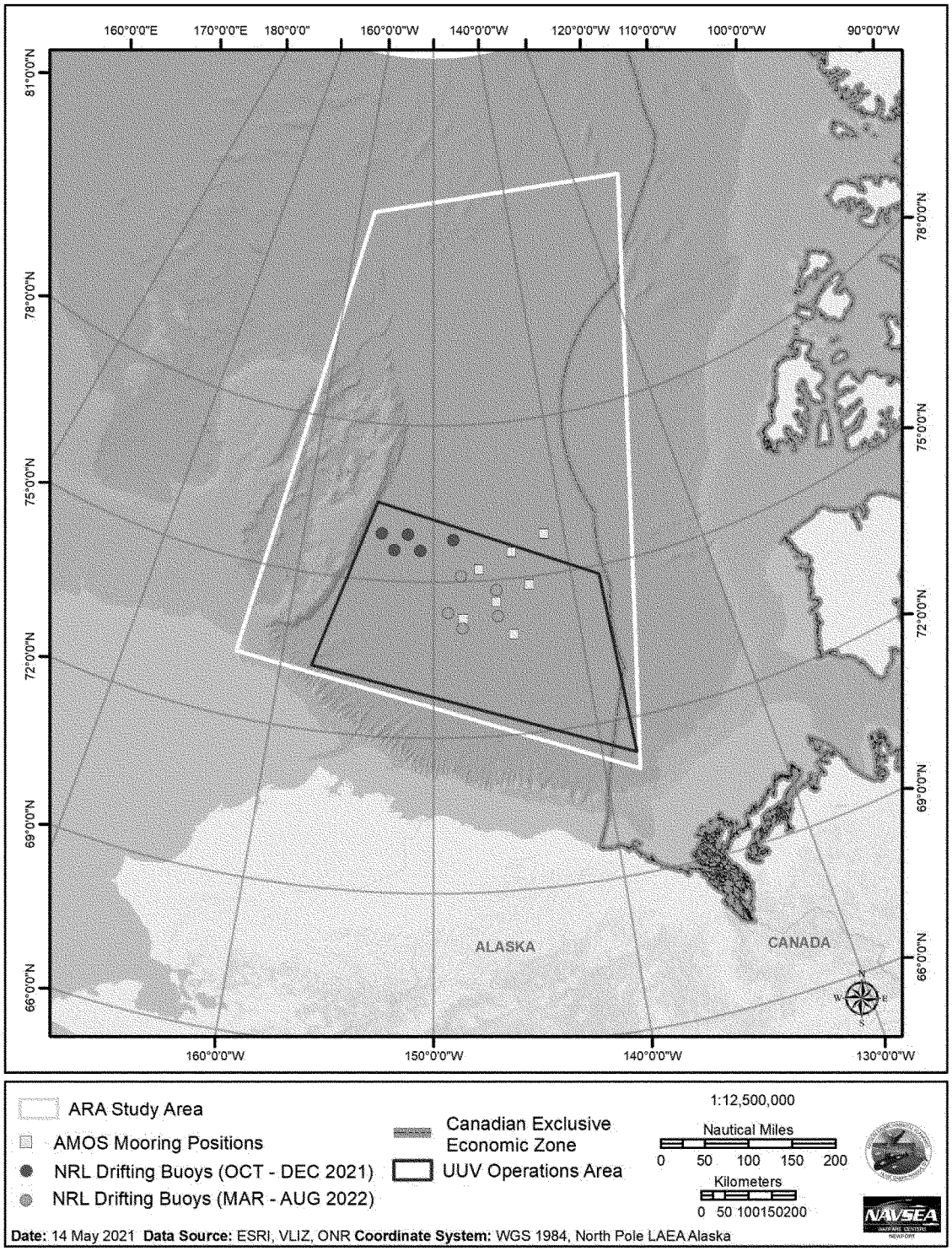


**Figure 1-- Map of the Proposed Project Location for the Office of Naval Research's Arctic Research Activities from 2021-2022**

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*Detailed Description of Specific Activity*

The ONR Arctic and Global Prediction Program supports two major projects: Stratified Ocean Dynamics of the Arctic (SODA) and AMOS. The SODA and AMOS projects have been previously discussed in association with previously issued IHAs (see 83 FR 40234, August 14, 2018; 84 FR 37240, July 31, 2019). However, only activities relating to the AMOS project will occur during the period covered by this proposed action.

The AMOS project constitutes the development of a new system involving very low (35 hertz (Hz)), low (900 Hz), and mid-frequency transmissions (10 kilohertz (kHz)). The AMOS project would utilize acoustic sources and receivers to provide a means of performing under-ice navigation for gliders and UUVs. This would allow for the possibility of year-round scientific observations of the environment in the Arctic. As an environment that is particularly affected by climate change, year-round observations under a variety of ice conditions are required to study the effects of this changing environment for military readiness, as well as the implications of environmental change to humans and animals. Very-low frequency technology is an important method of observing ocean warming, and the continued development of these types of acoustic sources would allow for characterization of larger areas. The technology also has the potential to allow for development and use of navigational systems that would not be heard by some marine mammal species, and therefore would be less impactful overall.

Additional leave-behind sources would be deployed by aircraft and would support the NRL project for rapid environmental characterization. This project would use groups of drifting buoys with sources and receivers communicating oceanographic information to a satellite in near real time. These sources would employ low-frequency transmissions only (900 Hz). NRL currently has four active buoys covered under the current IHA that is active until September 13, 2021 (85 FR 53333; August 28, 2020). The proposed action described herein would allow ONR to re-activate these buoys for observation in the far north from October to December 2021, as well as a deployment of additional sources to be active from March to August 2022.

ONR is also supporting a project called UpTempO that would use two drifting buoys to observe oceanographic conditions in the seasonal ice zone. These buoys would not have any active acoustic sources and no take is expected to occur in association with the project. They would be deployed by ONR during the October 2021 and fall 2022 cruises.

In contrast to past IHA applications for ONR Arctic Research Activities, icebreaking would not occur as part of this proposed action. The manner of deployment (by ships, buoys, UUVs, or other related methods) as well as the transit of the vessels is not expected to contribute to take. ONR's proposed action would only utilize non-impulsive acoustic sources, although not all sources will cause take of marine mammals. Furthermore, any marine mammal takes would only arise from the operation of non-impulsive active sources.

Below are descriptions of the equipment and platforms that would be deployed at different times during the proposed action.

Research Vessels

The R/V *Sikuliaq* would perform the research cruise in October 2021, and conduct testing of acoustic sources during the cruise, as well as leave sources behind to operate as a year-round navigation system observation. The ship to be used in the fall of 2022 is yet to be determined. The most probable option would be the CGC HEALY, so that ship is described below.

The R/V *Sikuliaq* has a maximum speed of approximately 12 knots with a cruising speed of 11 knots (University of Alaska Fairbanks, 2014). The R/V *Sikuliaq* is not an ice-breaking ship, but an ice-strengthened ship. The CGC HEALY travels at a maximum speed of 17 knots with a cruising speed of 12 knots (United States Coast Guard, 2013), and a maximum speed of 3 knots when traveling through 3.5 feet (ft; 1.37 meters (m)) of sea ice (Murphy, 2010). No icebreaking activity is anticipated to occur during this proposed action. Both vessels would depart from and return to Nome, Alaska.

The *R/V Sikuliaq,* CGC HEALY, or any other vessel operating a research cruise associated with the proposed action may perform the following activities during their research cruises:

- Deployment of moored and/or ice-tethered passive sensors (oceanographic measurement devices, acoustic receivers);
- Deployment of moored and/or ice-tethered active acoustic sources to transmit acoustic signals;
- Deployment of unmanned surface, underwater, and air vehicles;
- Deployment of drifting buoys, with or without acoustic sources; or,
- Recovery of equipment.

Additional oceanographic measurements would be made using ship-based systems, including the following:

- Modular Microstructure Profiler, a tethered profiler that would measure oceanographic parameters within the top 984 ft (300 m) of the water column;
- Shallow Water Integrate Mapping System, a winched towed body with a Conductivity Temperature Depth sensor, upward and downward looking Acoustic Doppler Current Profilers (ADCPs), and a temperature sensor within the top 328 ft (100 m) of the water column;
- Three dimensional Sonic Anemometer, which would measure wind stress from the foremast of the ship; and,
- Surface Wave Instrument Float with Tracking are freely drifting buoys measuring winds, waves, and other parameters with deployments spanning from hours to days.

Moored and Drifting Acoustic Sources

*AMOS Project (ONR)*—During the October 2021 cruise, acoustic sources would be deployed from the ship on UUVs or drifting buoys. This would be done for intermittent testing of the system components. The total amount of active source testing for ship-deployed sources used during the cruise would be 120 hours. The testing would take place near the seven source locations on Figure 1, with UUVs running tracks within the designated box. During this testing, 35 Hz and 900 Hz acoustic signals, as well as acoustic modems would be employed.

Up to seven fixed acoustic navigation sources transmitting at 900 Hz would remain in place for a year. These moorings would be anchored on the seabed and held in the water column with subsurface buoys. All sources would be deployed by shipboard winches, which would lower sources and receivers in a controlled manner. Anchors would be steel ''wagon wheels'' typically used for this type of deployment. All navigation sources would be recovered. The purpose of the navigation sources is to orient UUVs and gliders in situations when they are under ice and cannot communicate with satellites. For the purposes of this proposed action, activities potentially resulting in take would not be included in the fall 2022 cruise; a subsequent application would be provided by ONR depending on the scientific plan associated with that cruise.

*Rapid Environmental Characterization (NRL)*—NRL deployed six drifting sources under the current 2020 IHA for ONR Arctic Research Activities (85 FR 53333; August 28, 2020). A maximum of three may still be available for reactivation in October 2021 and transmission until December 2021. The purpose of these sources is near-real time environmental characterization, which is accomplished by communicating information from the drifting buoys to a satellite. These buoys were deployed in the ice (via fixed-wing aircraft) for purposes of buoy stability, but eventually drift in open water. An additional set of five buoys would be deployed on the ice in March 2022

using fixed- or rotary-wing aircraft and transmit until August 2022. The sources can be turned on or off remotely in accordance with permitting requirements (*i.e.,* outside of periods with an active IHA as to not cause potential unauthorized take of marine mammals), or when they drift outside of the project location.

The acoustic parameters of sources for the AMOS and NRL projects discussed for this proposed action are given in Table 1. A distinction is made between sources that would have limited testing when the ship is on-site, and leave behind sources that would transmit for the full year.

TABLE 1—CHARACTERISTICS OF THE MODELED ACOUSTIC SOURCES USED DURING THE PROPOSED ACTION

| Source name | Frequency (Hz) | Sound pressure level (dB re 1 μPa at 1 m) [1] | Pulse length (seconds) | Duty cycle (percent) | Source type | Usage |
|---|---|---|---|---|---|---|
| AMOS Navigation Sources (LF) [leave behind]. | 900–950 | 180 | 30 | <1 | Moored | 7 sources transmitting 30 seconds every 4 hours. |
| AMOS Navigation sources (LF) [on-site; UUV and ship]. | 900–950 | 180 | 30 | 4 | Moving | 2 sources, transmitting 5 times an hour with 30 sec pulse length. |
| AMOS Navigation sources (LF) [onsite; buoy]. | 900–950 | 180 | 30 | <1 | Drifting | 1 source, transmitting every 4 hours. |
| AMOS VLF Navigation Sources. | 35 | 190 | 600 | 1 | Ship-deployed | 2 times per day. |
| NRL Real-Time Sensing Sources (2021). | 900–1,000 | 184 | 30 | <1 | Drifting | 3 sources transmitting 30 seconds every 6 hours. |
| NRL Real-Time Sensing Sources (2022). | 850–1,050 | 184 | 60 | <1 | Drifting | 5 sources transmitting 1 minute every 8 hours. |
| WHOI [2] micromodem (on-site; UUV). | 8–14 kHz | 185 | 4 | 10 | Moving | Medium duty cycle acoustic communications. |

[1] dB re 1 μPa at 1 m= decibels referenced to 1 micropascal at 1 meter.
[2] WHOI = Woods Hole Oceanographic Institution.

Activities Not Likely To Result in Take

The following in-water activities have been determined to be unlikely to result in take of marine mammals. These activities are described here but they are not discussed further in this document.

*De minimis Sources—De minimis* sources have the following parameters: Low source levels, narrow beams, downward directed transmission, short pulse lengths, frequencies outside known marine mammal hearing ranges, or some combination of these factors (Department of the Navy, 2013b). The drifting oceanographic sensors described below use only *de minimis* sources and are not anticipated to have the potential for impacts on marine mammals or their habitat. Descriptions of some *de minimis* sources are discussed below and in Table 2. More detailed descriptions of these *de minimis* sources can be found in ONR's IHA application under Section 1.1.1.2.

TABLE 2—PARAMETERS FOR DE MINIMIS SOURCES

| Source name | Frequency range (kHz) | Sound pressure level (dB re 1 μPa at 1 m) | Pulse length (seconds) | Duty cycle (percent) | Beamwidth | De minimis Justification |
|---|---|---|---|---|---|---|
| PIES | 12 | 170–180 | 0.006 | <0.01 | 45 | Extremely low duty cycle, low source level, very short pulse length. |
| ADCP | >200, 150, or 75 | 190 | <0.001 | <0.1 | 2.2 | Very low pulse length, narrow beam, moderate source level. |
| Chirp sonar | 2–16 | 200 | 0.02 | <1 | narrow | Very short pulse length, low duty cycle, narrow beam width. |
| EMATT | 700–1,100 Hz and 1100–4,000 Hz. | <150 | N/A | 25–100 | Omni | Very low source level. |
| Coring system | 25–200 | 158–162 | <0.001 | 16 | Omni | Very low source level.[2] |
| CTD [1] attached Echosounder. | 5–20 | 160 | 0.004 | 2 | Omni | Very low source level. |

[1] CTD = Conductivity Temperature Depth.
[2] Within sediment; not within the water column.

*Drifting Oceanographic Sensors*—Observations of ocean-ice interactions require the use of sensors that are moored and embedded in the ice. For the proposed action, it will not be required to break ice to do this, as deployments can be performed in areas of low ice-coverage or free-floating ice. Sensors are deployed within a few dozen meters of each other on the same ice floe. Three types of sensors would be used: Autonomous ocean flux buoys, Integrated Autonomous Drifters, and Ice Tethered Profilers. The autonomous ocean flux buoys measure oceanographic properties just below the ocean-ice interface. The autonomous ocean flux buoys would have ADCPs and temperature chains attached, to measure temperature, salinity, and other ocean parameters in the top 20 ft (6 m) of the water column. The Integrated Autonomous Drifters would have a long temperate string extending down to 656 ft (200 m) depth and would incorporate meteorological sensors, and a temperature spring to estimate ice thickness. The Ice Tethered Profilers would collect information on ocean temperature, salinity and velocity down to 820 ft (250 m) depth.

Fifteen autonomous floats (Air-Launched Autonomous Micro Observer) would be deployed during the proposed action to measure seasonal evolution of the ocean temperature and salinity, as well as currents. They would be deployed on the eastern edge of the Chukchi Sea in water less than 3,280 ft (1,000 m) deep. Three autonomous floats would act as virtual moorings by originating on the seafloor, then moving up the water column to the surface and returning to the seafloor. The other 12 autonomous floats would sit on the seafloor and at intervals begin to move towards the surface. At programmed intervals, a subset of the floats would release anchors and begin their profiling mission. Up to 15 additional floats may be deployed by ships of opportunity in the Beaufort Gyre.

The UpTempO project would deploy two surface buoys. There is a conductivity-temperature sensor pair attached to the hull to measure sea surface temperature and sea surface salinity.

The drifting oceanographic sensors described above use only *de minimis* sources and are therefore not anticipated to have the potential for impacts on marine mammals or their habitat.

*Moored Oceanographic Sensors*—Moored sensors would capture a range of ice, ocean, and atmospheric conditions on a year-round basis. These would be bottom anchored, sub-surface moorings measuring velocity, temperature, and salinity in the upper 1,640 ft (500 m) of the water column. The moorings also collect high-resolution acoustic measurements of the ice using the ice profilers described above. Ice velocity and surface waves would be measured by 500 kHz multi-beam sonars.

Additionally, Beaufort Gyre Exploration Project moorings BGOS–A and BGOS–B would be augmented with McLane Moored Profilers. BGOS–A and BGOS–B would be placed on existing Woods Hole Oceanographic Institute (WHOI) moorings. The two BGOS moorings would provide measurements near the Northwind Ridge, with considerable latitudinal distribution. Existing deployments of Nortek Acoustic Wave and Current Profilers on BGOS–A and BGOS–B would also be continued as part of the proposed action.

The moored oceanographic sensors described above use only *de minimis* sources and are therefore not anticipated to have the potential for impacts on marine mammals or their habitat.

*Fixed Receiving Arrays*—Horizontal and vertical arrays may be used to receive acoustic signals, if they are available. Examples are the Single Hydrophone Recording Units and Autonomous Multichannel Acoustic Recorder. Such arrays would be moored to the seafloor and remain in place throughout the activity.

These are passive acoustic sensors and therefore are not anticipated to have the potential for impacts on marine mammals or their habitat.

*Activities Involving Aircraft and Unmanned Air Vehicles*—The deployment of the NRL sources in 2022 would be accomplished by using aircraft that would land on the ice. Flights would be conducted with a Twin Otter aircraft or a single engine alternative that would be quieter. Flights would transit at 1,500 ft or 10,000 ft (457 m or 3,048 m) above sea level. Twin Otters have flight speeds of 80 to 160 knots (148 to 296 kilometers per hour (kph)), a typical survey speed of 90 to 110 knots (167 to 204 kph), 66 ft (20 m) wingspan, and a total length of 26 ft (8 m) (U.S. Department of Commerce and National Oceanographic and Atmospheric Administration, 2015). At a distance of 2,152 ft (656 m) away, the received pressure levels of a Twin Otter range from 80 to 98.5 A-weighted decibels (expression of the relative loudness in the air as perceived by the human ear) and frequency levels ranging from 20 Hz to 10 kHz, though they are more typically in the 500 Hz range (Metzger, 1995). Once on the floating ice, the team would drill holes with up to a 10-inch (in; 25.4 centimeters (cm)) diameter to deploy scientific equipment (*e.g.,* source, hydrophone array, EMATT) into the water column.

The proposed action includes the use of an Unmanned Aerial System (UAS). The UAS would be utilized for aid of navigation and to confirm and study ice cover. The UAS would be deployed ahead of the ship to ensure a clear passage for the vessel and would have a maximum flight time of 20 minutes. The UAS would not be used for marine mammal observations or hover close to the ice near marine mammals. There would be no videotaping or picture taking of marine mammals as part of this proposed action. The UAS that would be used during the proposed action is a small commercially available system that generates low sound levels and is smaller than military grade systems. The dimensions of the proposed UAS are, 11.4 in, (29 cm) by 11.4 in (29 cm) by 7.1 in (18 cm) and weighs only 2.5 pounds (lbs.; 1.13 kilograms (kg)). The UAS can operate up to 984 ft (300 m) away, which would keep the device in close proximity to the ship. The planned operation of the UAS is to fly it vertically above the ship to examine the ice conditions in the path of the ship and around the area (*i.e.,* not flown at low altitudes around the vessel). Currently acoustic parameters are not available for the proposed models of UASs to be utilized in the proposed action. As stated above these systems are very small and are similar to a remote control helicopter. It is likely marine mammals would not hear the device since the noise generated would likely not be audible from greater than 5 ft (1.5 m) away (Christiansen *et al.,* 2016).

All aircraft (manned and unmanned) would be required to maintain a minimum separation distance of 1,000 ft (305 m) from any pinnipeds hauled out on the ice. Therefore, no take of marine mammals is anticipated from these activities.

*On-Ice Measurement Systems*—On-ice measurement systems would be used to collect weather data. These would include an Autonomous Weather Station and an Ice Mass Balance Buoy. The Autonomous Weather Station would be deployed on a tripod; the tripod has insulated foot platforms that are frozen into the ice. The system would consist of an anemometer, humidity sensor, and pressure sensor. The Autonomous Weather Station also includes an altimeter that is *de minimis* due to its very high frequency (200 kHz). The Ice Mass Balance Buoy is a 20

ft (6 m) sensor string, which is deployed through a 2 in (5 cm) hole drilled into the ice. The string is weighted by a 2.2 lbs. (1 kg) lead weight, and is supported by a tripod. The buoy contains a *de minimis* 200 kHz altimeter and snow depth sensor. Autonomous Weather Stations and Ice Mass Balance Buoys will be deployed, and will drift with the ice, making measurements, until their host ice floes melt, thus destroying the instruments (likely in summer, roughly one year after deployment). After the on-ice instruments are destroyed they cannot be recovered, and would sink to the seafloor as their host ice floes melted.

All personnel conducting experiments on the ice would be required to maintain a minimum separation distance of 1,000 ft (305 m) from any pinnipeds hauled out on the ice. Therefore, no take of marine mammals is anticipated from these activities.

*Bottom Interaction Systems*—Coring of bottom sediment could occur anywhere within the project location to obtain a more complete understanding of the Arctic environment. Coring equipment would take up to 50 samples of the ocean bottom in the study location annually. The samples would be roughly cylindrical, with a 3.1 in (8 cm) diameter cross-section area; the corings would be between 10 and 20 ft (3 and 6 m) long. Coring would only occur during research cruises, during the summer or early fall. The coring equipment moves very slowly through the muddy bottom, at a speed of approximately 1 m per hour, and would not create any detectable acoustic signal within the water column, though very low levels of acoustic transmissions may be created in the mud (refer back to Table 2). The source levels of the coring equipment are so low that take of marine mammals from acoustic exposure is not considered a potential outcome of this activity.

*Weather Balloons*—To support weather observations, up to forty Kevlar or latex balloons would be launched per year for the duration of the proposed actions. These balloons and associated radiosondes (a sensor package that is suspended below the balloon) are similar to those that have been deployed by the National Weather Service since the late 1930s. When released, the balloon is approximately 5 to 6 ft (1.5 to 1.8 m) in diameter and gradually expands as it rises owing to the decrease in air pressure. When the balloon reaches a diameter of 13 to 22 ft (4 to 7 m), it bursts and a parachute is deployed to slow the descent of the associated radiosonde. Weather balloons would not be recovered.

The deployment of weather balloons does not include the use of active acoustics and therefore, is not anticipated to have the potential for impacts on marine mammals or their habitat.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

## Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the 2021–2022 IHA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species).*

Table 3 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's 2020 Alaska SARs (Muto *et al.,* 2021). All values presented in Table 3 are the most recent available at the time of publication and are available in the 2020 SARs (Muto *et al.,* 2021) and available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 3—SPECIES EXPECTED TO OCCUR IN THE PROJECT AREA

| Common name | Scientific name | Stock | ESA/MMPA status; strategic (Y/N) [1] | Stock abundance (CV, $N_{min}$, most recent abundance survey) [2] | PBR | Annual M/SI [3] |
|---|---|---|---|---|---|---|
| **Order Cetartiodactyla—Cetacean—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)** | | | | | | |
| Family Monodontidae: | | | | | | |
| Beluga whale | *Delphinapterus leucas* | Beaufort Sea [4] | -,-; N | 39,258 (0.229, N/A, 1992). | [4] UND | 102 |
| Beluga whale | *Delphinapterus leucas* | Eastern Chukchi | -,-; N | 13,305 (0.51, 8,875, 2012). | 178 | 55 |
| **Order Carnivora—Superfamily Pinnipedia** | | | | | | |
| Family Phocidae (earless seals): | | | | | | |
| Ringed seal [5] | *Pusa hispida hispida* | Arctic | T, D; Y | 171,418 | 5,100 | 6,459 |

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; $N_{min}$ is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] The 2016 guidelines for preparing SARs state that abundance estimates older than 8 years should not be used to calculate PBR due to a decline in the reliability of an aged estimate. Therefore, the PBR for this stock is considered undetermined.

[5] Abundance and associated values for ringed seals are for the U.S. population in the Bering Sea only.

Activities conducted during this proposed action are expected to cause harassment, as defined by the MMPA as it applies to military readiness, to the beluga whale (*Delphinapterus leucas;* of the Beaufort and eastern Chukchi Sea stocks) and the ringed seal (*Pusa hispida hispida).* As indicated above in Table 3, both species (with three managed stocks) temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing it. While bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), bearded seals (*Erignathus barbatus*), spotted seals (*Phoca largha*), and ribbon seals (*Histiophoca fasciata*) have been documented in the area, the temporal and spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

Due to the location of the study area (*i.e.,* northern offshore, deep water), there were no calculated exposures for the bowhead whale, gray whale, spotted seal, bearded seal, and ribbon seal from quantitative modeling of acoustic sources. Bowhead and gray whales are closely associated with the shallow waters of the continental shelf in the Beaufort Sea and are unlikely to be exposed to acoustic harassment (Carretta *et al.,* 2017; Muto *et al.,* 2018). Similarly, spotted seals tend to prefer pack ice areas with water depths less than 200 m during the spring and move to coastal habitats in the summer and fall, found as far north as 69–72° N (Muto *et al.,* 2018). Although the study area includes some waters south of 72° N, the acoustic sources with the potential to result in take of marine mammals are not found below that latitude and spotted seals are not expected to be exposed. Ribbon seals are found year-round in the Bering Sea but may seasonally range into the Chukchi Sea (Muto *et al.,* 2018). The proposed action occurs primarily in the Beaufort Sea, outside of the core range of ribbon seals, thus ribbon seals are not expected to be behaviorally harassed. Narwhals (*Monodon monoceros*) are considered extralimital in the project area and are not expected to be encountered. As no harassment is expected of the bowhead whale, gray whale, spotted seal, bearded seal, narwhal, and ribbon seal, these species will not be discussed further in this proposed notice.

Ringed seals lack a reliable population estimate for the entire stock. Conn *et al.,* (2014) calculated an abundance estimate of 171,418 ringed seals (95 percent CI: 141,588–201,090) using a sub-sample of data collected from the U.S. portion of the Bering Sea in 2012. Researchers plan to combine these results with those from spring surveys of the Chukchi and Beaufort Seas once complete. During the summer months, ringed seals forage along ice edges or in open water areas of high productivity and have been observed in the northern Beaufort Sea during summer months (Harwood and Stirling, 1992; Freitas *et al.,* 2008; Kelly *et al.,* 2010a; Harwood *et al.,* 2015). This open water movement becomes limited with the onset of ice in the fall forcing the seals to move west and south as ice packs advance, dispersing the animals throughout the Chukchi and Bering Seas, with only a portion remaining in the Beaufort Sea (Frost and Lowry, 1984; Crawford *et al.,* 2012; Harwood *et al.,* 2012). In a telemetry study, ringed seals tagged showed preference for Continental Shelf waters over 96 percent of tracking days, where near-continuous foraging activities were noted (Von Duyke *et al.,* 2020).

The Navy has utilized Kelly *et al.,* (2010a) in their IHA application to determine the abundance estimate for ringed seals, which is based on surveys conducted by Bengtson *et al.,* (2005) and Frost *et al.,* (2004) in the 1990s and 2000 (300,000 ringed seals). NMFS 2013 Alaska SAR (Allen & Angliss, 2013) has noted that this value is likely an underestimate as it is based on surveys that are older than eight years and that make up a portion of the known range of the ringed seal. Conn *et al.,* (2014) determined a different abundance estimate from Kelly *et al.,* 2010a (171,418), which is noted in NMFS's 2020 Alaska SAR (Muto *et al.,* 2021) to also be inaccurate due to the lack of accounting for availability bias for seals that were in the water at the time of the surveys as well as not including seals located within the shorefast ice zone. Muto *et al.,* (2021) notes that an accurate population estimate is likely larger by a factor of two or more. However, no accepted population estimate is present for Arctic ringed seals. Therefore, in the interest in making conservative decisions, NMFS will adopt the Conn *et al.,* (2014) abundance estimate (171,418) for further analyses and discussions on this proposed action by ONR.

In addition, the polar bear (*Ursus maritimus*) and Pacific walrus (*Odobenus rosmarus*) may be found both on sea ice and/or in the water within the Beaufort Sea and Chukchi Sea. These species are managed by the U.S. Fish and Wildlife Service (USFWS) and are not considered further in this document.

*Beluga Whale*

Beluga whales are distributed throughout seasonally ice-covered arctic and subarctic waters of the Northern Hemisphere (Gurevich, 1980), and are closely associated with open leads and polynyas in ice-covered regions (Hazard, 1988). Belugas are both migratory and residential (non-migratory), depending on the population. Seasonal distribution is affected by ice cover, tidal conditions, access to prey, temperature, and human interaction (Frost *et al.,* 1985).

There are five beluga stocks recognized within U.S. waters: Cook Inlet, Bristol Bay, eastern Bering Sea, eastern Chukchi Sea, and Beaufort Sea. Two stocks, the Beaufort Sea and eastern Chukchi Sea stocks, have the potential to occur in the location of this proposed action.

There are two migration areas used by Beaufort Sea belugas that overlap the proposed project site. One, located in the Eastern Chukchi and Alaskan Beaufort Sea, is a migration area in use from April to May. The second, located in the Alaskan Beaufort Sea, is used by migrating belugas from September to October (Calambokidis *et al.,* 2015). During the winter, they can be found foraging in offshore waters associated with pack ice. When the sea ice melts in summer, they move to warmer river estuaries and coastal areas for molting and calving (Muto *et al.,* 2017). Annual migrations can span over thousands of kilometers. The residential Beaufort Sea populations participate in short distance movements within their range throughout the year. Based on satellite tags (Suydam *et al.,* 2001) there is some overlap in distribution with the eastern Chukchi Sea beluga whale stock.

During the winter, eastern Chukchi Sea belugas occur in offshore waters associated with pack ice. In the spring, they migrate to warmer coastal estuaries, bays, and rivers where they may molt (Finley, 1982; Suydam, 2009), give birth to, and care for their calves (Sergeant and Brodie, 1969). Eastern Chukchi Sea belugas move into coastal areas, including Kasegaluk Lagoon (outside of the proposed project site), in late June and animals are sighted in the area until about mid-July (Frost and Lowry, 1990; Frost *et al.,* 1993). Satellite tags attached to eastern Chukchi Sea belugas captured in Kasegaluk Lagoon during the summer showed these whales traveled 593 nm (1,100 km) north of the Alaska coastline, into the Canadian Beaufort Sea within three months (Suydam *et al.,* 2001). Satellite telemetry data from 23 whales tagged during 1998–2007 suggest variation in movement patterns for different age and/or sex classes during July-September (Suydam *et al.,* 2005). Adult males used deeper waters and remained there for the duration of the summer; all belugas that moved into the Arctic Ocean (north of 75° N) were males, and males traveled through 90 percent pack ice cover to reach deeper waters in the Beaufort Sea and Arctic Ocean (79–80° N) by late July/early August. Adult and immature female belugas remained at or near the shelf break in the south through the eastern Bering Strait into the northern Bering Sea, remaining north of Saint Lawrence Island over the winter. A whale tagged in the eastern Chukchi Sea in 2007 overwintered in the waters north of Saint Lawrence Island during 2007/2008 and moved to near King Island in April and May before moving north through the Bering Strait in late May and early June (Suydam, 2009).

*Ringed Seal*

Ringed seals are the most common pinniped in the proposed project site and have wide distribution in seasonally and permanently ice-covered waters of the Northern Hemisphere (North Atlantic Marine Mammal Commission, 2004). Throughout their range, ringed seals have an affinity for ice-covered waters and are well adapted to occupying both shore-fast and pack ice (Kelly, 1988c). Ringed seals can be found further offshore than other pinnipeds since they can maintain breathing holes in ice thickness greater than 6.6 ft (2 m) (Smith and Stirling, 1975). The breathing holes are maintained by ringed seals using their sharp teeth and claws found on their fore flippers. They remain in contact with ice most of the year and use it as a platform for molting in late spring to early summer, for pupping and nursing in late winter to early spring, and for resting at other times of the year (Muto *et al.,* 2017).

Ringed seals have at least two distinct types of subnivean lairs: Haulout lairs and birthing lairs (Smith and Stirling, 1975). Haul-out lairs are typically single-chambered and offer protection from predators and cold weather. Birthing lairs are larger, multi-chambered areas that are used for pupping in addition to protection from predators. Ringed seals pup on both land-fast ice as well as stable pack ice. Lentfer (1972) found that ringed seals north of Utqiaġvik, Alaska (formally known as Barrow, Alaska) build their subnivean lairs on the pack ice near pressure ridges. Since subnivean lairs were found north of Utqiaġvik, Alaska, in pack ice, they are also assumed to be found within the sea ice in the proposed project site. Ringed seals excavate subnivean lairs in drifts over their breathing holes in the ice, in which they rest, give birth, and nurse their pups for 5–9 weeks during late winter and spring (Chapskii, 1940; McLaren, 1958; Smith and Stirling, 1975). Ringed seals require snow depths of at least 20–26 in (50–65 cm) for functional birth lairs (Kelly, 1988b; Lydersen, 1998; Lydersen and Gjertz, 1986; Smith and Stirling, 1975). Such depths typically are found only where 8–12 in (20–30 cm) or more of snow has accumulated on flat ice and then drifted along pressure ridges or ice hummocks (Hammill, 2008; Lydersen *et al.,* 1990; Lydersen and Ryg, 1991; Smith and Lydersen, 1991). Ringed seals are born beginning in March, but the majority of births occur in early April. About a month after parturition, mating begins in late April and early May.

In Alaskan waters, during winter and early spring when sea ice is at its maximum extent, ringed seals are abundant in the northern Bering Sea, Norton and Kotzebue Sounds, and throughout the Chukchi and Beaufort seas (Frost, 1985; Kelly, 1988c). Passive acoustic monitoring of ringed seals from a high frequency recording package deployed at a depth of 787 ft (240 m) in the Chukchi Sea 65 nmi (120 km) north-northwest of Utqiaġvik, Alaska detected ringed seals in the area between mid-December and late May over the 4 year study (Jones *et al.,* 2014). With the onset of fall freeze, ringed seal movements become increasingly restricted and seals will either move west and south with the advancing ice pack with many seals dispersing throughout the Chukchi and Bering Seas, or remaining in the Beaufort Sea (Crawford *et al.,* 2012; Frost and Lowry, 1984; Harwood *et al.,* 2012). Kelly *et al.,* (2010a) tracked home ranges for ringed seals in the subnivean period (using shore-fast ice); the size of the home ranges varied from less than 1 up to 279 $km^2$ (median is 0.62 $km^2$ for adult males and 0.65 $km^2$ for adult females). Most (94 percent) of the home ranges were less than 3 $km^2$ during the subnivean period (Kelly *et al.,* 2010a). Near large polynyas, ringed seals maintain ranges, up to 7,000 $km^2$ during winter and 2,100 $km^2$ during spring (Born *et al.,* 2004). Some adult ringed seals return to the same small home ranges they occupied during the previous winter (Kelly *et al.,* 2010a). The size of winter home ranges can vary by up to a factor of 10 depending on the amount of fast ice; seal movements were more restricted during winters with extensive fast ice, and were much less restricted where fast ice did not form at high levels (Harwood *et al.,* 2015).

Most taxonomists recognize five subspecies of ringed seals. The Arctic ringed seal subspecies occurs in the Arctic Ocean and Bering Sea and is the only stock that occurs in U.S. waters (referred to as the Arctic stock). NMFS listed the Arctic ringed seal subspecies as threatened under the ESA on December 28, 2012 (77 FR 76706), primarily due to anticipated loss of sea ice through the end of the 21st century.

*Ice Seal Unusual Mortality Event (UME)*

Since June 1, 2018, elevated strandings of ringed seals, bearded seals, spotted seals, and several unidentified seals have occurred in the Bering and Chukchi Seas. The National Oceanic and Atmospheric Administration (NOAA), as of September 2019, have declared this event an Unusual Mortality Event (UME). A UME is defined under the MMPA as a stranding that is unexpected, involves a significant die-off of any marine mammal population, and demands immediate response. From June 1, 2018 to February 9, 2020, there have been 278 dead seals reported, with 112 stranding in 2018, 165 in 2019, and one in 2020, which is nearly five times the average number of strandings of about 29 seals annually. All age classes of seals have been reported stranded, and a subset of seals have been sampled for genetics and harmful algal bloom exposure, with a few having histopathology collected. Results are pending, and the cause of the UME remains unknown.

There was a previous UME involving ice seals from 2011 to 2016, which was most active in 2011–2012. A minimum of 657 seals were affected. The UME investigation determined that some of the clinical signs were due to an abnormal molt, but a definitive cause of death for the UME was never

determined. The number of stranded ice seals involved in this UME, and their physical characteristics, is not at all similar to the 2011–2016 UME, as the seals in 2018–2020 have not been exhibiting hair loss or skin lesions, which were a primary finding in the 2011–2016 UME. The investigation into the cause of the most recent UME is ongoing.

As of July 2021, the current number of animals counted as part of the UME is 316. However, while no ice seals have stranded in 2021, at the time of this publication, the UME is still considered ongoing. More detailed information is available at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2018-2019-ice-seal-unusual-mortality-event-alaska.*

*Marine Mammal Hearing*

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.,* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.,* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

| Hearing group | Generalized hearing range * |
|---|---|
| Low-frequency (LF) cetaceans (baleen whales) | 7 Hz to 35 kHz. |
| Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales) | 150 Hz to 160 kHz. |
| High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*). | 275 Hz to 160 kHz. |
| Phocid pinnipeds (PW) (underwater) (true seals) | 50 Hz to 86 kHz. |
| Otariid pinnipeds (OW) (underwater) (sea lions and fur seals) | 60 Hz to 39 kHz. |

* Represents the generalized hearing range for the entire group as a composite *(i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.,* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.,* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Two marine mammal species (one cetacean (odontocete species) and one pinniped (phocid species)) have the reasonable potential to co-occur with the proposed survey activities. Beluga whales are classified as mid-frequency odontocete cetaceans. Please refer back to Table 3.

**Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

*Description of Sound Sources*

Here, we first provide background information on marine mammal hearing before discussing the potential effects of the use of active acoustic sources on marine mammals.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the dB scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to one micropascal (1 μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). RMS accounts for both positive and negative values;

squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

The marine soundscape is comprised of both ambient and anthropogenic sounds. Ambient sound is defined as the all-encompassing sound in a given place and is usually a composite of sound from many sources both near and far (ANSI, 1995). The sound level of an area is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, wind, precipitation, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction).

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. Because of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

Underwater sounds fall into one of two general sound types: impulsive and non-impulsive (defined in the following paragraphs). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Impulsive sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Impulsive sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features. However and as previously noted, no impulsive acoustic sources will be used during ONR's proposed action.

Non-impulsive sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-impulsive sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-impulsive sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar sources that intentionally direct a sound signal at a target that is reflected back in order to discern physical details about the target. These active sources are used in navigation, military training and testing, and other research activities such as the activities planned by ONR as part of the proposed action. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

*Acoustic Impacts*

Please refer to the information given previously regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Gotz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. In this section, we first describe specific manifestations of acoustic effects before providing discussion specific to the proposed activities in the next section.

*Permanent Threshold Shift*—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.,* 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above (a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift

approximates TTS onset; *e.g.,* Southall *et al.,* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as impact pile driving pulses as received close to the source) are at least six dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level (SEL) thresholds are 15 to 20 dB higher than TTS cumulative SEL thresholds (Southall *et al.,* 2007).

*Temporary Threshold Shift*—TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus),* beluga whale, harbor porpoise (*Phocoeona phocoena*), and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal (*Mirounga angustirostris*), harbor seal (*Phoca vitulina*), and California sea lion (*Zalophus californianus*)) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). TTS was not observed in trained spotted and ringed seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.,* 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. For example, there are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.,* (2007), Finneran and Jenkins (2012), and Finneran (2015).

*Behavioral effects*—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.,* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud impulsive sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, l*et al*one the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2003). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal

presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been observed in marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both *(e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.,* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

To assess the strength of behavioral changes and responses to external sounds and SPLs associated with changes in behavior, Southall *et al.,* (2007) developed and utilized a severity scale, which is a 10 point scale ranging from no effect (labeled 0), effects not likely to influence vital rates (labeled from 1 to 3), effects that could affect vital rates (labeled 4 to 6), to effects that were thought likely to influence vital rates (labeled 7 to 9). For non-impulsive sounds (*i.e.,* similar to the sources used during the proposed action), data suggest that exposures of pinnipeds to sources between 90 and 140 dB re 1 µPa do not elicit strong behavioral responses; no data were available for exposures at higher received levels for Southall *et al.,* (2007) to include in the severity scale analysis. Reactions of harbor seals were the only available data for which the responses could be ranked on the severity scale. For reactions that were recorded, the majority (17 of 18 individuals/groups) were ranked on the severity scale as a 4 (defined as moderate change in movement, brief shift in group distribution, or moderate change in vocal behavior) or lower; the remaining response was ranked as a 6 (defined as minor or moderate avoidance of the sound source). Additional data on hooded seals (*Cystophora cristata*) indicate avoidance responses to signals above 160–170 dB re 1 µPa (Kvadsheim *et al.,* 2010), and data on grey (*Halichoerus grypus*) and harbor seals indicate avoidance response at received levels of 135–144 dB re 1 µPa (Götz *et al.,* 2010). In each instance where food was available, which provided the seals motivation to

remain near the source, habituation to the signals occurred rapidly. In the same study, it was noted that habituation was not apparent in wild seals where no food source was available (Götz *et al.,* 2010). This implies that the motivation of the animal is necessary to consider in determining the potential for a reaction. In one study to investigate the under-ice movements and sensory cues associated with under-ice navigation of ice seals, acoustic transmitters (60–69 kHz at 159 dB re 1 µPa at 1 m) were attached to ringed seals (Wartzok *et al.,* 1992a; Wartzok *et al.,* 1992b). An acoustic tracking system then was installed in the ice to receive the acoustic signals and provide real-time tracking of ice seal movements. Although the frequencies used in this study are at the upper limit of ringed seal hearing, the ringed seals appeared unaffected by the acoustic transmissions, as they were able to maintain normal behaviors (*e.g.,* finding breathing holes).

Seals exposed to non-impulsive sources with a received sound pressure level within the range of calculated exposures (142–193 dB re 1 µPa), have been shown to change their behavior by modifying diving activity and avoidance of the sound source (Götz *et al.,* 2010; Kvadsheim *et al.,* 2010). Although a minor change to a behavior may occur as a result of exposure to the sources in the proposed action, these changes would be within the normal range of behaviors for the animal (*e.g.,* the use of a breathing hole further from the source, rather than one closer to the source, would be within the normal range of behavior) (Kelly *et al.,* 1988d).

Some behavioral response studies have been conducted on odontocete responses to sonar. In studies that examined sperm whales (*Physeter macrocephalus*) and false killer whales (*Pseudorca crassidens*) (both in the mid-frequency cetacean hearing group), the marine mammals showed temporary cessation of calling and avoidance of sonar sources (Akamatsu *et al.,* 1993; Watkins and Schevill, 1975). Sperm whales resumed calling and communication approximately two minutes after the pings stopped (Watkins and Schevill, 1975). False killer whales moved away from the sound source but returned to the area between 0 and 10 minutes after the end of transmissions (Akamatsu *et al.,* 1993). Many of the contextual factors resulting from the behavioral response studies (*e.g.,* close approaches by multiple vessels or tagging) would not occur during the proposed action. Odontocete behavioral responses to acoustic transmissions from non-impulsive sources used during the proposed action would likely be a result of the animal's behavioral state and prior experience rather than external variables such as ship proximity; thus, if significant behavioral responses occur they would likely be short term. In fact, no significant behavioral responses such as panic, stranding, or other severe reactions have been observed during monitoring of actual training exercises (Department of the Navy 2011, 2014; Smultea and Mobley, 2009; Watwood *et al.,* 2012).

Ringed seals on pack ice showed various behaviors when approached by an icebreaking vessel. A majority of seals dove underwater when the ship was within 0.5 nm (0.93 km) while others remained on the ice. However, as icebreaking vessels came closer to the seals, most dove underwater. Ringed seals have also been observed foraging in the wake of an icebreaking vessel (Richardson *et al.,* 1995). In studies by Alliston (1980; 1981), there was no observed change in the density of ringed seals in areas that had been subject to icebreaking. Alternatively, ringed seals may have preferentially established breathing holes in the ship tracks after the icebreaker moved through the area. Although icebreaking will not be occurring during this proposed action, previous observations and studies using icebreaking ships provide a greater understanding in how seal behavior may be affected by a vessel transiting through the area.

Adult ringed seals spend up to 20 percent of the time in subnivean lairs during the winter season (Kelly *et al.,* 2010b). Ringed seal pups spend about 50 percent of their time in the lair during the nursing period (Lydersen and Hammill, 1993). During the warm season ringed seals haul out on the ice. In a study of ringed seal haul out activity by Born *et al.,* (2002), ringed seals spent 25–57 percent of their time hauled out in June, which is during their molting season. Ringed seal lairs are typically used by individual seals (haulout lairs) or by a mother with a pup (birthing lairs); large lairs used by many seals for hauling out are rare (Smith and Stirling, 1975). If the non-impulsive acoustic transmissions are heard and are perceived as a threat, ringed seals within subnivean lairs could react to the sound in a similar fashion to their reaction to other threats, such as polar bears (their primary predators), although the type of sound would be novel to them. Responses of ringed seals to a variety of human-induced sounds (*e.g.,* helicopter noise, snowmobiles, dogs, people, and seismic activity) have been variable; some seals entered the water and some seals remained in the lair. However, in all instances in which observed seals departed lairs in response to noise disturbance, they subsequently reoccupied the lair (Kelly *et al.,* 1988d).

Ringed seal mothers have a strong bond with their pups and may physically move their pups from the birth lair to an alternate lair to avoid predation, sometimes risking their lives to defend their pups from potential predators (Smith, 1987). If a ringed seal mother perceives the proposed acoustic sources as a threat, the network of multiple birth and haulout lairs allows the mother and pup to move to a new lair (Smith and Hammill, 1981; Smith and Stirling, 1975). The acoustic sources from this proposed action are not likely to impede a ringed seal from finding a breathing hole or lair, as captive seals have been found to primarily use vision to locate breathing holes and no effect to ringed seal vision would occur from the acoustic disturbance (Elsner *et al.,* 1989; Wartzok *et al.,* 1992a). It is anticipated that a ringed seal would be able to relocate to a different breathing hole relatively easily without impacting their normal behavior patterns.

*Stress responses*—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response.

During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

*Auditory masking*—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is anthropogenic, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

*Potential Effects on Prey*—The marine mammal species in the study area feed on marine invertebrates and fish. Studies of sound energy effects on invertebrates are few, and primarily identify behavioral responses. It is expected that most marine invertebrates would not sense the frequencies of the acoustic transmissions from the acoustic sources associated with the proposed action. Although acoustic sources used during the proposed action may briefly impact individuals, intermittent exposures to non-impulsive acoustic sources are not expected to impact survival, growth, recruitment, or reproduction of widespread marine invertebrate populations.

The fish species residing in the study area include those that are closely associated with the deep ocean habitat of the Beaufort Sea. Nearly 250 marine fish species have been described in the Arctic, excluding the larger parts of the sub-Arctic Bering, Barents, and Norwegian Seas (Mecklenburg *et al.,* 2011). However, only about 30 are known to occur in the Arctic waters of the Beaufort Sea (Christiansen and Reist, 2013). Although hearing capability data only exist for fewer than 100 of the 32,000 named fish species, current data suggest that most species of fish detect sounds from 50 to 100 Hz, with few fish hearing sounds above 4 kHz (Popper, 2008). It is believed that most fish have the best hearing sensitivity from 100 to 400 Hz (Popper, 2003). Fish species in the study area are expected to hear the low-frequency sources associated with the proposed action, but most are not expected to detect sound from the mid-frequency sources. Human generated sound could alter the behavior of a fish in a manner than would affect its way of living, such as where it tries to locate food or how well it could find a mate. Behavioral responses to loud noise could include a startle response, such as the fish swimming away from the source, the fish ''freezing'' and staying in place, or scattering (Popper, 2003). Misund (1997) found that fish ahead of a ship showed avoidance reactions at ranges of 160 to 489 ft (49 to 149 m). Avoidance behavior of vessels, vertically or horizontally in the water column, has been reported for cod and herring, and was attributed to vessel noise. While acoustic sources associated with the proposed action may influence the behavior of some fish species, other fish species may be equally unresponsive. Overall effects to fish from the proposed

action would be localized, temporary, and infrequent.

*Effects to Physical and Foraging Habitat*—Ringed seals haul out on pack ice during the spring and summer to molt (Reeves *et al.,* 2002; Born *et al.,* 2002). Additionally, some studies (Alliston, 1980; 1981) suggested that ringed seals might preferentially establish breathing holes in ship tracks after vessels move through the area. The amount of ice habitat disturbed by activities is small relative to the amount of overall habitat available. There will be no permanent loss or modification of physical ice habitat used by ringed seals. Vessel movement would have no effect on physical beluga habitat as beluga habitat is solely within the water column. Furthermore, any testing of towed sources would be limited in duration and the deployed sources that would remain in use after the vessels have left the survey area have low duty cycles and lower source levels. There would not be an expected habitat-related effects from acoustic sources that could impact the in-water habitat of ringed seals or beluga whale foraging habitat.

**Estimated Take**

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines ''harassment'' as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to acoustic transmissions. No Level A harassment is estimated to occur. Therefore, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). For the proposed IHA, ONR employed an advanced model known as the Navy Acoustic Effects Model (NAEMO) for assessing the impacts of underwater sound. Below, we describe the factors considered here in more detail and present the proposed take estimate.

*Acoustic Thresholds*

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

*Level B Harassment for non-explosive sources*—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (*e.g.,* hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS typical generalized acoustic thresholds are received levels of 120 dB re 1 µPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. In this case, NMFS is proposing to adopt the Navy's approach to estimating incidental take by Level B harassment from the active acoustic sources for this action, which includes use of these dose response functions.

The Navy's dose response functions were developed to estimate take from sonar and similar transducers. Multi-year research efforts have conducted sonar exposure studies for odontocetes and mysticetes (Miller *et al.,* 2012; Sivle *et al.,* 2012). Several studies with captive animals have provided data under controlled circumstances for odontocetes and pinnipeds (Houser *et al.,* 2013a; Houser *et al.,* 2013b). Moretti *et al.,* (2014) published a beaked whale dose-response curve based on passive acoustic monitoring of beaked whales during U.S. Navy training activity at Atlantic Underwater Test and Evaluation Center during actual Anti-Submarine Warfare exercises. This new information necessitated the update of the behavioral response criteria for the U.S. Navy's environmental analyses.

Southall *et al.,* (2007), and more recently Southall *et al.,* (2019), synthesized data from many past behavioral studies and observations to determine the likelihood of behavioral reactions at specific sound levels. While in general, the louder the sound source the more intense the behavioral response, it was clear that the proximity of a sound source and the animal's experience, motivation, and conditioning were also critical factors influencing the response (Southall *et al.,* 2007; Southall *et al.,* 2019). After examining all of the available data, the authors felt that the derivation of thresholds for behavioral response based solely on exposure level was not supported because context of the animal at the time of sound exposure was an important factor in estimating response. Nonetheless, in some conditions, consistent avoidance reactions were noted at higher sound levels depending on the marine mammal species or group allowing conclusions to be drawn. Phocid seals showed avoidance reactions at or below 190 dB re 1 µPa at 1m; thus, seals may actually receive levels adequate to produce TTS before avoiding the source.

Odontocete behavioral criteria for non-impulsive sources were updated based on controlled exposure studies for dolphins and sea mammals, sonar, and safety (3S) studies where odontocete behavioral responses were reported after exposure to sonar (Antunes *et al.,* 2014; Houser *et al.,* 2013b); Miller *et al.,* 2011; Miller *et al.,* 2014; Miller *et al.,* 2012). For the 3S study, the sonar outputs included 1–2 kHz up- and down-sweeps and 6–7 kHz up-sweeps; source levels were ramped up from 152–158 dB re 1 µPa to a maximum of 198–214 re 1 µPa at 1 m. Sonar signals were ramped up

over several pings while the vessel approached the mammals. The study did include some control passes of ships with the sonar off to discern the behavioral responses of the mammals to vessel presence alone versus active sonar.

The controlled exposure studies included exposing the Navy's trained bottlenose dolphins to mid-frequency sonar while they were in a pen. Mid-frequency sonar was played at 6 different exposure levels from 125–185 dB re 1 µPa (rms). The behavioral response function for odontocetes resulting from the studies described above has a 50 percent probability of response at 157 dB re 1 µPa. Additionally, distance cutoffs (20 km for MF cetaceans) were applied to exclude exposures beyond which the potential of significant behavioral responses is considered to be unlikely.

The pinniped behavioral threshold was updated based on controlled exposure experiments on the following captive animals: hooded seal, gray seal (*Halichoerus grypus*), and California sea lion (Götz *et al.,* 2010; Houser *et al.,* 2013a; Kvadsheim *et al.,* 2010). Hooded seals were exposed to increasing levels of sonar until an avoidance response was observed, while the grey seals were exposed first to a single received level multiple times, then an increasing received level. Each individual California sea lion was exposed to the same received level ten times. These exposure sessions were combined into a single response value, with an overall response assumed if an animal responded in any single session. The resulting behavioral response function for pinnipeds has a 50 percent probability of response at 166 dB re 1 µPa. Additionally, distance cutoffs (10 km for pinnipeds) were applied to exclude exposures beyond which the potential of significant behavioral responses is considered to be unlikely.

*Level A harassment for non-explosive sources*—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). ONR's proposed activities involve only non-impulsive sources.

These thresholds are provided in Table 5 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

| Hearing group | PTS onset acoustic thresholds * (received level) | |
|---|---|---|
| | Impulsive | Non-impulsive |
| Low-Frequency (LF) Cetaceans | *Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB | *Cell 2:* $L_{E,LF,24h}$: 199 dB. |
| Mid-Frequency (MF) Cetaceans | *Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB | *Cell 4:* $L_{E,MF,24h}$: 198 dB. |
| High-Frequency (HF) Cetaceans | *Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB | *Cell 6:* $L_{E,HF,24h}$: 173 dB. |
| Phocid Pinnipeds (PW) (Underwater) | *Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB | *Cell 8:* $L_{E,PW,24h}$: 201 dB. |
| Otariid Pinnipeds (OW) (Underwater) | *Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB | *Cell 10:* $L_{E,OW,24h}$: 219 dB. |

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

**Note:** Peak sound pressure ($L_{pk}$) has a reference value of 1 µPa, and cumulative sound exposure level ($L_E$) has a reference value of 1 µPa2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI, 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

*Quantitative Modeling*

The Navy performed a quantitative analysis to estimate the number of marine mammals that could be exposed to underwater acoustic transmissions above the previously described threshold criteria during the proposed action. Inputs to the quantitative analysis included marine mammal density estimates obtained from the Navy Marine Species Density Database, marine mammal depth occurrence distributions (U.S. Department of the Navy, 2017b), oceanographic and environmental data, marine mammal hearing data, and criteria and thresholds for levels of potential effects. The quantitative analysis consists of computer modeled estimates and a post-model analysis to determine the number of potential animal exposures. The model calculates sound energy propagation from the proposed non-impulsive acoustic sources, the sound received by animat (virtual animal) dosimeters representing marine mammals distributed in the area around the modeled activity, and whether the sound received by animats exceeds the thresholds for effects.

The Navy developed a set of software tools and compiled data for estimating acoustic effects on marine mammals without consideration of behavioral avoidance or mitigation. These tools and data sets serve as integral components of NAEMO. In NAEMO, animats are distributed non-uniformly based on species-specific density, depth distribution, and group size information and animats record energy received at their location in the water column. A fully three-dimensional environment is used for calculating sound propagation and animat exposure in NAEMO. Site-specific bathymetry, sound speed profiles, wind speed, and bottom properties are incorporated into the propagation modeling process. NAEMO calculates the likely propagation for various levels of energy (sound or pressure) resulting from each source used during the training event.

NAEMO then records the energy received by each animat within the energy footprint of the event and calculates the number of animats having received levels of energy exposures that fall within defined impact thresholds. Predicted effects on the animats within a scenario are then tallied and the highest order effect (based on severity of

criteria; *e.g.,* PTS over TTS) predicted for a given animat is assumed. Each scenario, or each 24-hour period for scenarios lasting greater than 24 hours is independent of all others, and therefore, the same individual marine mammal (as represented by an animat in the model environment) could be impacted during each independent scenario or 24-hour period. In few instances, although the activities themselves all occur within the proposed study location, sound may propagate beyond the boundary of the study area. Any exposures occurring outside the boundary of the study area are counted as if they occurred within the study area boundary. NAEMO provides the initial estimated impacts on marine species with a static horizontal distribution (*i.e.,* animats in the model environment do not move horizontally).

There are limitations to the data used in the acoustic effects model, and the results must be interpreted within this context. While the best available data and appropriate input assumptions have been used in the modeling, when there is a lack of definitive data to support an aspect of the modeling, conservative modeling assumptions have been chosen (*i.e.,* assumptions that may result in an overestimate of acoustic exposures):

- Animats are modeled as being underwater, stationary, and facing the source and therefore always predicted to receive the maximum potential sound level at a given location (*i.e.,* no porpoising or pinnipeds' heads above water);
- Animats do not move horizontally (but change their position vertically within the water column), which may overestimate physiological effects such as hearing loss, especially for slow moving or stationary sound sources in the model;
- Animats are stationary horizontally and therefore do not avoid the sound source, unlike in the wild where animals would most often avoid exposures at higher sound levels, especially those exposures that may result in PTS;
- Multiple exposures within any 24-hour period are considered one continuous exposure for the purposes of calculating potential threshold shift, because there are not sufficient data to estimate a hearing recovery function for the time between exposures; and
- Mitigation measures were not considered in the model. In reality, sound-producing activities would be reduced, stopped, or delayed if marine mammals are detected by visual monitoring.

Because of these inherent model limitations and simplifications, model-estimated results should be further analyzed, considering such factors as the range to specific effects, avoidance, and the likelihood of successfully implementing mitigation measures. This analysis uses a number of factors in addition to the acoustic model results to predict acoustic effects on marine mammals.

For the other non-impulsive sources, NAEMO calculates the SPL and SEL for each active emission during an event. This is done by taking the following factors into account over the propagation paths: bathymetric relief and bottom types, sound speed, and attenuation contributors such as absorption, bottom loss, and surface loss. Platforms such as a ship using one or more sound sources are modeled in accordance with relevant vehicle dynamics and time durations by moving them across an area whose size is representative of the testing event's operational area.

Table 6 provides range to effects for noise produced through use of the proposed sources to mid-frequency cetacean and pinniped-specific criteria. Range to effects is important information in predicting non-impulsive acoustic impacts. Therefore, the ranges in Table 6 provide realistic maximum distances over which the specific effects from the use of non-impulsive sources during the proposed action would be possible.

TABLE 6—RANGE TO PTS, TTS, AND BEHAVIORAL EFFECTS IN THE PROJECT AREA BASED ON CUTOFF DISTANCES FOR NON-IMPULSIVE ACOUSTIC SOURCES

| Source type | Range to behavioral effects (meters) | | Range to TTS effects (meters) [c] | | Range to PTS effects (meters) [c] | |
|---|---|---|---|---|---|---|
| | MF cetacean | pinniped | MF cetacean | pinniped | MF cetacean | pinniped |
| On-site drifting sources [b] | [a] 10,000 | [a] 10,000 | 0 | 0 | 0 | 0 |
| Fixed sources | [a] 20,000 | [a] 5,000 | 0 | 0 | 0 | 0 |

[a] Cutoff distance applied (U.S. Department of the Navy, 2017a).
[b] Assessed under the assumption that some of the on-site drifting sources would become closer together.
[c] No effect (and therefore, no distance from source) is anticipated based on the NAEMO modeling.

A behavioral response study conducted on and around the Navy range in Southern California (SOCAL BRS) observed reactions to sonar and similar sound sources by several marine mammal species, including Risso's dolphins (*Grampus griseus*), a mid-frequency cetacean (DeRuiter *et al.,* 2013; Goldbogen *et al.,* 2013; Southall *et al.,* 2011; Southall *et al.,* 2012; Southall *et al.,* 2013). In a preliminary analysis, none of the Risso's dolphins exposed to simulated or real mid-frequency sonar demonstrated any overt or obvious responses (Southall *et al.,* 2012, Southall *et al.,* 2013). In general, although the responses to the simulated sonar were varied across individuals and species, none of the animals exposed to real Navy sonar responded; these exposures occurred at distances beyond 10 km, and were up to 100 km away (DeRuiter *et al.,* 2013). These data suggest that most odontocetes (not including beaked whales (Family *Ziphiidae*) and harbor porpoises) likely do not exhibit significant behavioral reactions to sonar and other transducers beyond approximately 10 km. Therefore, the Navy uses a cutoff distance for odontocetes of 10 km for moderate source level, single platform training, and testing events, and 20 km for all other events, including this proposed action (U.S. Department of the Navy, 2017a). NMFS proposes to adopt this approach in support of this proposed IHA.

Southall *et al.,* (2007) reported that pinnipeds do not exhibit strong reactions to SPLs up to 140 dB re 1 µPa from non-impulsive sources. While there are limited data on pinniped behavioral responses beyond about 3 km in the water, the Navy used a distance cutoff of 2.7 nm (5 km) for moderate source level, single platform training and testing events, and 5.4 nm (10 km) for all other events, including the proposed Arctic Research Activities (U.S. Department of the Navy, 2017a).

NMFS proposes to adopt this approach in support of this proposed IHA.

Regardless of the received level at the cutoff distances described above, take is not estimated to occur beyond 10 and 20 km from the source for pinnipeds and cetaceans, respectively. No instances of PTS were modeled for any species or stock; as such, no take by Level A harassment is anticipated or proposed to be authorized. Further information on cutoff distances can be found in Section 6.5.1 in ONR's 2021–2022 IHA application on NMFS' website: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

The marine mammal density numbers utilized for quantitative modeling are from the Navy Marine Species Density Database (U.S. Department of the Navy, 2014). Density estimates are based on habitat-based modeling by Kaschner *et al.,* (2006) and Kaschner (2004). While density estimates for the two stocks of beluga whales are equal (Kaschner *et al.,* 2006; Kaschner 2004), take has been apportioned to each stock proportional to the abundance of each stock. Table 7 shows the exposures expected for the beluga whale and ringed seal based on NAEMO modeled results.

TABLE 7—QUANTITATIVE MODELING RESULTS OF POTENTIAL EXPOSURES

| Species | Density (animals/km²) | Level B harassment (behavioral) | Level B harassment (TTS) | Total proposed take | Percentage of stock taken [1] |
|---|---|---|---|---|---|
| **Cetacean (odontocete)** | | | | | |
| Beluga Whale (Beaufort Sea stock) [1] | 0.0087 | 375 | 0 | 375 | 0.96 |
| Beluga Whale (Chukchi Sea stock) [1] | | 125 | 0 | 125 | 0.94 |
| **Pinniped (phocid)** | | | | | |
| Ringed Seal | 0.3958 | 6,050 | 0 | 6,050 | 3.53 |

[1] Acoustic exposures to beluga whales were not modeled at the stock level. Take of beluga whales in each stock was based on the proportion of each stock in relation to the total number of beluga whales. Therefore, 75 percent of the calculated take was apportioned to the Beaufort Sea stock, and 25 percent of the calculated take was apportioned to the Eastern Chukchi Sea stock.

**Proposed Mitigation**

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). The NDAA for FY 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

*Mitigation for Marine Mammals and Their Habitat*

Ships operated by or for the Navy have personnel assigned to stand watch at all times, day and night, when moving through the water. While in transit, ships must use extreme caution and proceed at a safe speed (1–3 knots in ice; <10 knots in open ice-free waters) such that the ship can take proper and effective action to avoid a collision with any marine mammal and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

While underway, the ships (including non-Navy ships operating on behalf of the Navy) utilizing active acoustics and towed in-water devices will have at least one watch person during activities. While underway, watch personnel must be alert at all times and have access to binoculars.

During mooring or UUV deployment, visual observation would start 15 minutes prior to and continue throughout the deployment within an exclusion zone of 180 ft (55 m, roughly one ship length) around the deployed mooring. Deployment will stop if a marine mammal is visually detected within the exclusion zone. Deployment will re-commence if any one of the following conditions are met: (1) The animal is observed exiting the exclusion zone, (2) the animal is thought to have exited the exclusion zone based on its course and speed, or (3) the exclusion zone has been clear from any additional sightings for a period of 15 minutes for pinnipeds and 30 minutes for cetaceans.

Ships would avoid approaching marine mammals head-on and would maneuver to maintain an exclusion zone of 500 yards (yd; 457 m) around observed whales, and 200 ft (183 m) around all other marine mammals, provided it is safe to do so in ice-free waters.

All personnel conducting on-ice experiments, as well as all aircraft operating in the study area, are required

to maintain a separation distance of 1,000 ft (305 m) from any observed marine mammal.

These requirements do not apply if a vessel's safety is at risk, such as when a change of course would create an imminent and serious threat to safety, person, vessel, or aircraft, and to the extent that vessels are restricted in their ability to maneuver. No further action is necessary if a marine mammal other than a whale continues to approach the vessel after there has already been one maneuver and/or speed change to avoid the animal. Avoidance measures should continue for any observed whale in order to maintain an exclusion zone of 500 yd (457 m).

Based on our evaluation of the Navy's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses.

**Proposed Monitoring and Reporting**

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical, both to compliance as well as to ensure that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
- Mitigation and monitoring effectiveness.

While underway, the ships (including non-Navy ships operating on behalf of the Navy) utilizing active acoustics will have at least one watch person during activities. Watch personnel undertake extensive training in accordance with the U.S. Navy Lookout Training Handbook or civilian equivalent, including on the job instruction and a formal Personal Qualification Standard program (or equivalent program for supporting contractors or civilians), to certify that they have demonstrated all necessary skills (such as detection and reporting of floating or partially submerged objects). Additionally, watch personnel have taken the Navy's Marine Species Awareness Training. Their duties may be performed in conjunction with other job responsibilities, such as navigating the ship or supervising other personnel. While on watch, personnel employ visual search techniques, including the use of binoculars, using a scanning method in accordance with the U.S. Navy Lookout Training Handbook or civilian equivalent. A primary duty of watch personnel is to detect and report all objects and disturbances sighted in the water that may be indicative of a threat to the ship and its crew, such as debris, or surface disturbance. Per safety requirements, watch personnel also report any marine mammals sighted that have the potential to be in the direct path of the ship as a standard collision avoidance procedure.

The U.S. Navy has coordinated with NMFS to develop an overarching program plan in which specific monitoring would occur. This plan is called the Integrated Comprehensive Monitoring Program (ICMP) (U.S. Department of the Navy, 2011). The ICMP has been developed in direct response to Navy permitting requirements established through various environmental compliance efforts. As a framework document, the ICMP applies by regulation to those activities on ranges and operating areas for which the Navy is seeking or has sought incidental take authorizations. The ICMP is intended to coordinate monitoring efforts across all regions and to allocate the most appropriate level and type of effort based on a set of standardized research goals, and in acknowledgement of regional scientific value and resource availability.

The ICMP is focused on Navy training and testing ranges where the majority of Navy activities occur regularly as those areas have the greatest potential for being impacted. ONR's Arctic Research Activities in comparison is a less intensive test with little human activity present in the Arctic. Human presence is limited to a minimal amount of days for source operations and source deployments, in contrast to the large majority (greater than 95 percent) of time that the sources will be left behind and operate autonomously. Therefore, a dedicated monitoring project is not warranted. However, ONR will record all observations of marine mammals, including the marine mammal's location (latitude and longitude), behavior, and distance from project activities.

The Navy is committed to documenting and reporting relevant aspects of research and testing activities to verify implementation of mitigation, comply with permits, and improve future environmental assessments. If any injury or death of a marine mammal is observed during the 2021–2022 Arctic Research Activities, the Navy will immediately halt the activity and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The following information must be provided:

- Time, date, and location of the discovery;
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal(s) was discovered (*e.g.,* deployment of moored or drifting sources, during on-ice experiments, or by transiting vessel).

ONR will provide NMFS with a draft exercise monitoring report within 90 days of the conclusion of the proposed activity. The draft exercise monitoring report will include data regarding acoustic source use and any mammal

sightings or detection will be documented. The report will include the estimated number of marine mammals taken during the activity. The report will also include information on the number of shutdowns recorded. If no comments are received from NMFS within 30 days of submission of the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

**Negligible Impact Analysis and Determination**

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Underwater acoustic transmissions associated with the Arctic Research Activities, as outlined previously, have the potential to result in Level B harassment of beluga seals and ringed seals in the form of behavioral disturbances. No serious injury, mortality, or Level A harassment are anticipated to result from these described activities.

Effects on individuals that are taken by Level B harassment could include alteration of dive behavior, alteration of foraging behavior, effects to breathing rates, interference with or alteration of vocalization, avoidance, and flight. More severe behavioral responses are not anticipated due to the localized, intermittent use of active acoustic sources. Most likely, individuals will simply be temporarily displaced by moving away from the acoustic source. As described previously in the behavioral effects section, seals exposed to non-impulsive sources with a received sound pressure level within the range of calculated exposures (142–193 dB re 1 µPa), have been shown to change their behavior by modifying diving activity and avoidance of the sound source (Götz *et al.,* 2010; Kvadsheim *et al.,* 2010). Although a minor change to a behavior may occur as a result of exposure to the sound sources associated with the proposed action, these changes would be within the normal range of behaviors for the animal (*e.g.,* the use of a breathing hole further from the source, rather than one closer to the source, would be within the normal range of behavior). Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and would not result in any adverse impact to the stock as a whole.

The project is not expected to have significant adverse effects on marine mammal habitat. While the activities may cause some fish to leave the area of disturbance, temporarily impacting marine mammals' foraging opportunities, this would encompass a relatively small area of habitat leaving large areas of existing fish and marine mammal foraging habitat unaffected. As such, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No injury, serious injury, or mortality is anticipated or authorized;
- Impacts would be limited to Level B harassment only;
- TTS is not expected or predicted to occur; only temporary behavioral modifications are expected to result from these proposed activities; and
- There will be no permanent or significant loss or modification of marine mammal prey or habitat.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

**Unmitigable Adverse Impact Analysis and Determination**

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Subsistence hunting is important for many Alaska Native communities. A study of the North Slope villages of Nuiqsut, Kaktovik, and Utqiaġvik (formally Barrow) identified the primary resources used for subsistence and the locations for harvest (Stephen R. Braund & Associates, 2010), including terrestrial mammals (caribou, moose, wolf, and wolverine), birds (geese and eider), fish (Arctic cisco, Arctic char/Dolly Varden trout, and broad whitefish), and marine mammals (bowhead whale, ringed seal, bearded seal, and walrus). Ringed seals and beluga whales are likely located within the project area during this proposed action. However, the permitted sources would be placed outside of the range for subsistence hunting and ONR has been communicating with the Native communities about the proposed action. The closest active acoustic source (fixed or drifting) within the proposed project site that is likely to cause Level B take is approximately 110 nm (204 km) from land and outside of known subsistence use areas. However, almost all leave-behind sources that would constitute most of the Level B take would be approximately 240 mi (386 km) from shore. In comparison with IHAs issued to ONR for their previous Arctic Research Activities, this project is further north; therefore, there is no spatial overlap between known

subsistence harvest sites and the proposed activities contained herein. Furthermore, and as stated above, the range to effects for non-impulsive acoustic sources in this experiment is much smaller than the distance from shore, with acoustic sources that could constitute take being located far away from known subsistence hunting areas. Lastly, the proposed action would not remove individuals from the population.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from ONR's proposed activities.

**Endangered Species Act**

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

NMFS is proposing to authorize take of ringed seals, which are listed under the ESA. The Office of Protected Resources has requested initiation of Section 7 consultation with AKR for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

**Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to ONR for conducting their fourth year of Arctic Research Activities in the Beaufort and eastern Chukchi Seas from October 2021–October 2022, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

**Request for Public Comments**

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed fourth year of Arctic Research Activities. We also request at this time comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this proposed IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Proposed Activities section of this notice is planned or (2) the activities as described in the Description of Proposed Activities section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

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

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

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

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

Dated: August 18, 2021.

**Angela Somma,**

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

[FR Doc. 2021–18070 Filed 8–20–21; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0033, Notification of Pending Legal Proceedings

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comments on the proposed extension of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the information collection requirements concerning notification of pending legal proceedings.

**DATES:** Comments must be submitted on or before October 22, 2021.

**ADDRESSES:** You may submit comments, identified by OMB Control No. 3038–0033 by any of the following methods:

- The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Melissa Chiang, Senior Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, (202) 418–5578; email: *mchiang@cftc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal

agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''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, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. To comply with this requirement, the CFTC is publishing notice of the proposed extension of an existing collection of information listed below.

*Title:* Notification of Pending Legal Proceedings Pursuant to 17 CFR 1.60 (OMB Control Number 3038–0033). This is a request for extension of a currently approved information collection.

*Abstract:* The rule is designed to assist the Commission in monitoring legal proceedings involving the responsibilities imposed on designated contract markets (DCMs) and their officials and futures commission merchants (FCMs) and their principals by the Commodity Exchange Act, and is applicable to swap execution facilities (SEFs) through 17 CFR 37.2. This renewal updates the total requested burden based on available reported data.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedures Act and other applicable laws, and may be accessible under the Freedom of Information Act.

*Burden Statement:* The annual respondent burden for this collection during the renewal period is estimated to be as follows:

*Estimated Number of Annual Respondents:* 97.

*Estimated Average Annual Burden Hours per Respondent:* .25.

*Estimated Total Annual Burden Hours:* 24.25.

*Frequency of Collection:* As needed.

There are no capital costs or operating costs or maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 18, 2021.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2021–18079 Filed 8–20–21; 8:45 am]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

**[Docket ID: USA–2021–HQ–0020]**

### Submission for OMB Review; Comment Request

**AGENCY:** Department of the Army, Department of Defense (DoD).

**ACTION:** Emergency notice.

**SUMMARY:** Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to conduct research to investigate the theoretical relationship between diversity, inclusion policies and practices, and Soldier and team performance. DoD requests emergency processing and OMB authorization to collect the information after publication of this notice for a period of six months.

**DATES:** Comments must be received by August 25, 2021.

**ADDRESSES:** The Department has requested emergency processing from OMB for this information collection request by 2 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 2-day Review—Open for Public Comments'' or by using the search function. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

**SUPPLEMENTARY INFORMATION:** This information collection requirement is necessary to evaluate the statistical validity of a scientific model and associated measurement instrument. The model and instrument could be used by the Army for deeper understanding of how to improve inclusion policies and practices.

*Title; Associated Form; and OMB Number:* Inclusion Policy Practice Decoupling Phase II; OMB Control Number 0702–IPPD.

*Type of Request:* Emergency.

*Number of Respondents:* 2,000.

*Responses per Respondent:* 1.

*Annual Responses:* 2,000.

*Average Burden per Response:* 45 minutes.

*Annual Burden Hours:* 1,500.

*Affected Public:* None.

*Frequency:* Once.

*Respondent's Obligation:* Voluntary.

**Request for Comments**

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to

[1] 17 CFR 145.9.

enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: August 18, 2021.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2021–18092 Filed 8–20–21; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID DoD–2021–OS–0089]**

### Privacy Act of 1974; System of Records

**AGENCY:** Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

**ACTION:** Notice of a new system of records.

**SUMMARY:** The USD(P&R) is establishing a new system of records titled ''Problematic Sexual Behavior in Children and Youth (PSB–CY) Information System,'' DPR 50. This system of records supports operation of the PSB–CY Information System, which was created to satisfy a congressional mandate that the DoD establish a centralized database of information on incidents of problematic sexual behavior in children and youth occurring on U.S. military installations. The PSB–CY Information System is used to document, coordinate, and manage the continuum of care provided to children, youth, and their families in order to identity, report, respond, and intervene in incidents of PSB–CY. The system will also support the implementation of well-coordinated safety planning, support services, and referrals to specialized services when appropriate that will meet the complex needs of children, youth, and their families involved in incidents of PSB–CY.

**DATES:** This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before September 22, 2021. The Routine Uses are effective at the close of the comment period.

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

* *Federal Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

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

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Justin (JK) Kinnaman, 4000 Defense Pentagon, 5E604, Washington, DC 20301–4000, *osd.pentagon.ousd-p-r.mbx.mso@mail.mil* or (703) 571–0104.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 1089 of Public Law 115–232, ''Policy on Response to Juvenile-on-Juvenile Problematic Sexual Behavior Committed on Military Installations,'' mandates the establishment of a centralized database of information on incidents of problematic sexual behavior in children and youth on U.S. military installations. The DoD established the PSB–CY Information System to satisfy this legal requirement. This notice alerts the public to the existence and operation of this new system of records pursuant to the Privacy Act.

The PSB–CY Information System will capture inputs from multiple DoD agencies, thereby consolidating and tracking record-level information for each incident of PSB–CY that is reported to the Department. Tracking in the PSB–CY Information System will span the full life-cycle of an incident, consolidating and tracking the case from the time of report through the coordinated community response continuum of care to resolution and closure. The system will maintain separate records on both exhibiting and impacted children related to incidents of problematic sexual behavior in children and youth on U.S. Military installations. The system will also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness and continuous improvement.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *https://dpcld.defense.gov.*

## II. Privacy Act

Under the Privacy Act, a ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, the DoD has provided a report of this system of records to the OMB and to Congress.

Dated: August 18, 2021.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**SYSTEM NAME AND NUMBER:**

Problematic Sexual Behavior in Children and Youth (PSB–CY) Information System, DPR 50.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Defense Information Systems Agency (DISA), 6910 Cooper Avenue, Fort Meade, MD 20755; and Military Community and Family Policy (MC&FP) IT and Cyber Operations, 4800 Mark Center Drive, Alexandria, VA 22350–2300.

**SYSTEM MANAGER(S):**

Director, Office of Military Family Readiness Policy (OMFRP) or the Associate Director, Child and Youth Advocacy Program (CYAP), MC&FP, 4800 Mark Center Drive, Alexandria, VA 22350–2300; phone: (571) 372–4346, cell: (703) 409–8537.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. Section 1781, Office of Military Family Readiness Policy; Public Law (Pub. L.) 115–232, section 1089, ''Policy on Response to Juvenile-on-Juvenile Problematic Sexual Behavior Committed on Military Installations.''

**PURPOSE(S) OF THE SYSTEM:**

The PSB–CY Information System is used to:

A. Document, coordinate, and manage the continuum of care provided to children, youth, and their families in order to identify, report, respond, and intervene in incidents of PSB–CY occurring on U.S. military installations.

B. Ensure and implement well-coordinated safety planning, treatment,

and support services to address smooth and uninterrupted referrals to specialized services in order to create and maintain safety for and meet the complex needs of children, youth, and their families involved in incidents of PSB–CY.

C. Support statistical analysis, tracking and reporting to ensure continuous process improvement.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

A. Exhibiting child under the age of 18 years at the time of an incident of problematic sexual behavior occurring on a military installation.

B. Impacted child(ren) under the age of 18 years at the time of an incident of problematic sexual behavior occurring on a military installation.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Concerning the child (to include the exhibiting child and impacted children): Name; age; date of birth; Social Security Numbers (SSNs); emergency contact data; gender/gender identification; medical information such as case notes, clinical assessment details, description of incident, risk and safety plan, substance use details at time of incident, clinical treatment plan. The records will also contain information about the parent/legal guardian of the children, such as name; date of birth; Department of Defense (DoD) Identification Number; rank/grade; marital status; work and home contact information (such as phone number and/or cellular phone; mailing and email addresses to include official duty address); military records; race/ethnicity; and education information.

**Note:** Separate electronic records are maintained on the exhibiting child and impacted child(ren).

**RECORD SOURCE CATEGORIES:**

Child development centers, military treatment facilities, DoD schools, and individuals such as parent/legal guardians, and exhibiting or impacted children only if their parent/legal guardian give(s) consent.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate federal, state, local, territorial, tribal, or foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects of confirms a breach of the system of records; (2) the DoD determined as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained in electronic storage media, in accordance with the safeguards identified in this SORN. Electronic records may be stored in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information in this system may be retrieved by the exhibiting or impacted child's name and SSN.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Cut off and destroy 5 years after the end of the calendar year the case is closed or when a minor child reaches 23 years old.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Administrative: Backups secured off-site; encryption of backups; methods to ensure only authorized personnel have access to personally identifiable information; periodic security audits; regular monitoring of users' security practices. Technical: Biometrics; encryption of data at rest; firewall; role-based access controls; Virtual Private Network (VPN); Common Access Card (CAC); encryption of data in transit; Intrusion Detection System (IDS); DoD public key infrastructure certificates; least privilege access. Physical: Cipher locks; combination locks; key cards; security guards; Closed Circuit TV (CCTV); identification badges; and safes.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to their records should follow the procedures in 32 CFR part 310. Parents and guardians of minor children must follow the procedures in 32 CFR 310.3(d) to obtain access to records of the child. These procedures require the parent or legal guardian to establish: (1) The identity of the individual who is the subject of the record; (2) the parent/guardian's own identity; (3) that the requester is the parent or guardian of that individual, which may be proven by providing a copy of the individual's birth certificate showing parentage or a court order establishing the guardianship; and (4)

that the parent or guardian is acting on behalf of the individual in making the request. Individuals should address written record access requests to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20701–1155; Requester Service Center website: *https://www.esd.whs.mil/FOID/.* Signed, written requests should include the individual's full name, telephone number, street address, email address, and name and number of this SORN. In addition, the requester must provide either a notarized statement or a declaration made in accordance with 28 U.S.C. 1746, using the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

**CONTESTING RECORD PROCEDURES:**

The DoD rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 310.

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether information about themselves is contained in this system should follow the instructions for Record Access Procedures above.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

N/A.

[FR Doc. 2021–18025 Filed 8–20–21; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

**[Docket ID: USN–2021–HQ–0005]**

### Submission for OMB Review; Comment Request

**AGENCY:** Department of the Navy, Department of Defense (DoD).

**ACTION:** 30-Day information collection notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by September 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* CATCH Program; OMB Control Number 0703–0069.

*Type of Request:* Revision.

*Number of Respondents:* 385.

*Responses per Respondent:* 1.

*Annual Responses:* 385.

*Average Burden per Response:* 30 minutes.

*Annual Burden Hours:* 192.5.

*Needs and Uses:* The information collection requirement is necessary to assist with the identification of serial sexual assault offenders within the military services.

*Affected Public:* Individuals or households.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

*DOD Clearance Officer:* Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: August 17, 2021.

**Aaron T. Siegel,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 2021–18083 Filed 8–20–21; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

**[Docket ID: USN–2021–HQ–0006]**

### Submission for OMB Review; Comment Request

**AGENCY:** Department of the Navy, Department of Defense (DoD).

**ACTION:** 30-Day information collection notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by September 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Angela Duncan, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Prospective Studies of US Military Forces: The Millennium Cohort Study; OMB Control Number 0703–0064.

*Type of Request:* Revision.

**Millennium Cohort Study Follow-Up Survey**

*Number of Respondents:* 126,714.

*Responses per Respondent:* 1.

*Annual Responses:* 126,714.

*Average Burden per Response:* .75 hours.

*Annual Burden Hours:* 95,035.5.

**Millennium Cohort Study Participant Feedback Survey**

*Number of Respondents:* 126,714.

*Responses per Respondent:* 1.

*Annual Responses*: 126,714.

*Average Burden per Response:* 0.13 hours.

*Annual Burden Hours:* 16,472.82.

**Millennium Cohort Family Study Follow-Up Survey**

*Number of Respondents:* 14,768.

*Responses per Respondent:* 1.

*Annual Responses:* 14,768.

*Average Burden per Response:* 0.83 hours.

*Annual Burden Hours:* 12,257.44.

*Total Number of Respondents:* 141,482.

*Total Annual Responses:* 268,196.

*Total Annual Burden Hours:* 123,765.76.

*Needs and Uses:* The information collection requirement is necessary to respond to recommendations by Congress and by the Institute of Medicine to perform investigations that systematically collect population-based demographic and health data so as to track and evaluate the health of military personnel throughout the course of their careers and after leaving military service. The Millennium Cohort Family Study also evaluates the impact of military life on military families.

*Affected Public:* Individuals or households.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

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

*DoD Clearance Officer:* Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: August 17, 2021.

**Aaron T. Siegel,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 2021–18084 Filed 8–20–21; 8:45 am]

**BILLING CODE 5001–06–P**

## DEFENSE NUCLEAR FACILITIES SAFETY BOARD

### Extension of Hearing Record Closure Date

**AGENCY:** Defense Nuclear Facilities Safety Board.

**ACTION:** Extension of hearing record closure date.

**SUMMARY:** The Defense Nuclear Facilities Safety Board (Board) is extending the period of time for which its hearing record from July 13, 2021, will remain open. The hearing record will now close on September 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Tara Tadlock, Manager of Board Operations, (202) 694–7000.

**SUPPLEMENTARY INFORMATION:** The Board published a document in the **Federal Register** on July 7, 2021 (86 FR 35762). The publication concerned notice of a meeting and hearing on July 13, 2021, regarding the Savannah River Site. The Board stated in the July 7, 2021, notice that the hearing record would remain open until August 13, 2021, for the receipt of additional materials.

*Extension of Time:* The Board now extends the period of time for which the hearing record will remain open to September 13, 2021, to further accommodate, among other things, submission of answers to questions taken for the record during the course of the public hearing.

Dated: August 17, 2021.

**Joyce Connery,**

*Chair.*

[FR Doc. 2021–18078 Filed 8–20–21; 8:45 am]

**BILLING CODE 3670–01–P**

## DEPARTMENT OF EDUCATION

**[Docket ID ED–2021–FSA–0081]**

### Privacy Act of 1974; Matching Program

**AGENCY:** Federal Student Aid, Department of Education.

**ACTION:** Notice of a new matching program.

**SUMMARY:** This provides notice of the establishment of the matching program between the U.S. Department of Education (Department) and the Social Security Administration (SSA), which sets forth the terms, safeguards, and procedures under which the SSA will disclose to the Department data related to the Medical Improvement Not Expected (MINE) disability data of beneficiaries and recipients under title II and title XVI of the Social Security Act from the SSA system of records entitled the Disability Control File (DCF) and the Master Beneficiary Record (MBR). This matching program will enable the Department to contact the individuals who have a balance on a loan under title IV of the Higher Education Act of 1965, as amended (HEA), have a loan under title IV of the HEA written off due to default, or have an outstanding service or repayment obligation under the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program to inform title IV borrowers and TEACH Grant recipients whom SSA identifies as disabled that ED will discharge the borrowers' title IV loans or TEACH Grant service or repayment obligations no earlier than 61 days from the date that ED sends the notification to the borrower, unless the borrower chooses to have their loans or service obligations discharged earlier or chooses to opt out of the Total and Permanent Disability (TPD) discharge within 60 days from the date that ED sends the notification to the borrower.

**DATES:** Submit your comments on the proposed re-establishment of the matching program on or before September 22, 2021.

The matching program will go into effect on the later of the following two dates: Thirty (30) days after the publication of this notice, on August 23, 2021, unless comments have been received from interested members of the public requiring modification and republication of the notice in which case 30 days from the date on which ED publishes a revised matching program notice in the **Federal Register**, or on September 30, 2021. The matching program will continue for 18 months after the effective date and may be renewed for up to an additional 12 months if, within 3 months prior to the expiration of the 18 months, the respective Data Integrity Boards of the Department and SSA determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency

documents, submitting comments, and viewing the docket, is available on the site under the ''help'' tab.

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the matching program, address them to the Brenda Vigna, Division Chief, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320.

*Privacy Note:* The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Ron Bennett, Group Director Program Technical & Business Support Group, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320. Telephone: (202) 377–3181.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** We provide this notice in accordance with Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular No. A–108.

*Participating Agencies:* The U.S. Department of Education and the Social Security Administration.

*Authority for Conducting the Matching Program:* The Department's legal authority to enter into the matching program and to disclose information thereunder is sections 420N(c), 437(a)(1), 455(a)(1), and 464(c)(1)(F)(ii & iii) of the HEA (20 U.S.C. 1070g–2(c), 1087(a)(1), 1087e(a)(1), and 1087dd((c)(1)(F)(ii & iii)), the regulations promulgated pursuant to those sections (34 CFR 674.61(b), 682.402(c), 685.213, and 686.42(b)), and subsection (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)).

SSA's legal authority to disclose information as part of this matching program is section 1106 of the Social Security Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 CFR part 401), and subsection (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)).

*Purpose(s):* This matching program will enable the Department to send notices to certain borrowers of loans under title IV of the HEA and TEACH Grant recipients whom SSA identifies as disabled informing them that the Department will discharge the borrowers' title IV loans or TEACH Grant service or repayment obligations no earlier than 61 days from the date that the Department sends the notification to the borrower, unless the borrower chooses to have their loans or service obligations discharged earlier or chooses to opt out of the TPD discharge within 60 days from the date that the Department sends the notification to the borrower.

*Categories of Individuals:* The individuals whose records are used in the matching program are described as follows:

The Department will disclose to SSA from the system of records entitled ''National Student Loan Data System (NSLDS)'' (18–11–06) individuals who owe a balance on one or more title IV, HEA loans, who have a title IV, HEA loan written off due to default, or who have an outstanding service or repayment obligation under the TEACH Grant Program.

*Categories of Records:* The records used in the matching program are described as follows:

The Department will disclose to SSA from the system of records entitled ''National Student Loan Data System (NSLDS)'' (18–11–06) the name, date of birth (DOB), and Social Security number (SSN) of the individuals identified in the preceding section. These individuals will be matched with SSA data recorded in the DCF, which originate from the Supplemental Security Income Record and Special Veterans Benefits (SSR/SVB), 60–0103, and the MBR, SSA/ORSIS 60–0090, in order to provide the Department with Medical Improvement Not Expected disability data.

*System(s) of Records:* The Department will disclose records to SSA from its system of records identified as ''National Student Loan Data System (NSLDS)'' (18–11–06), as last published in the **Federal Register** in full on September 9, 2019 (84 FR 47265).

SSA will disclose records back to the Department from its systems of records identified as the ''Disability Control File (DCF)'' and the ''Master Beneficiary Record (MBR).'' The DCF, which originates from the SSR/SVB, 60–0103, was last fully published in the **Federal Register** at 71 FR 1830 on January 11, 2006, and updated on December 10, 2007 (72 FR 69723), July 3, 2018 (83 FR 31250–31251), and November 1, 2018 (83 FR 54969). The MBR, 60–0090, was last fully published in the **Federal Register** at 71 FR 1826 on January 11, 2006, and updated on December 10, 2007 (72 FR 69723), July 5, 2013 (78 FR 40542), July 3, 2018 (83 FR 31250–31251), and November 1, 2018 (83 FR 54969).

Subsection (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)) authorizes a Federal agency to disclose a record about an individual that is maintained in a system of records, without the individual's prior written consent, when the disclosure is pursuant to a routine use published in a System of Records Notice (SORN) as required by 5 U.S.C. 552a(e)(4)(D) and is compatible with the purposes for which the records were collected. SSA and ED determined that their SORNs contain appropriate routine use disclosure authority and that the use is compatible with the purpose for which the information was collected.

*Accessible Format:* On request to Lisa Tessitore, Program Operations Specialist, Federal Student Aid, U.S. Department of Education, 830 First Street NE, Washington, DC 20202–5320. Telephone: (202) 377–3249, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Richard Cordray,**

*Chief Operating Officer, Federal Student Aid.*

[FR Doc. 2021–18080 Filed 8–20–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Public Availability of the Department of Energy's Service Contract Inventory

**AGENCY:** Office of Acquisition Management, Department of Energy.

**ACTION:** Notice of public availability of FY 2019 Service Contract Inventory.

**SUMMARY:** In accordance with Division C of the Consolidated Appropriations Act of 2010, the Department of Energy (DOE) is publishing this notice to advise the public on the availability of the FY 2019 Service Contract Inventory and Analysis Plan and FY 2018 Service Contract Inventory Analysis. This inventory provides information on service contract actions over $150,000 that DOE completed in FY 2019. The inventory has been developed in accordance with guidance issued by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). FY 2019 government-wide service contract inventory can be found at *https://www.acquisition.gov/service-contract-inventory.* The Department of Energy's service contract inventory data is included in the government-wide inventory posted on the above link and the government-wide inventory can be filtered to display the inventory data for the Department. DOE has posted its FY 2018 Inventory Analysis and FY 2019 Analysis Plan at: *https://energy.gov/management/downloads/service-contract-inventory.*

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the service contract inventory should be directed to Barry E. Ross in the Strategic Programs Division at 202–287–1552 or *Barry.Ross@hq.doe.gov.*

**Signing Authority**

This document of the Department of Energy was signed on August 3, 2021, by John R. Bashista, Director, Office of Acquisition Management, 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 August 18, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2021–17998 Filed 8–20–21; 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:

**Filings Instituting Proceedings**

*Docket Numbers:* RP21–441–003.

*Applicants:* Florida Gas Transmission Company, LLC submits.

*Description:* Submits tariff filing per 154.203: File & Motion Revised & Cancelled Tariff Records—RP21–441–000 to be effective 8/1/2021.

*Filed Date:* 7/29/21.

*Accession Number:* 20210729–5057.

*Comment Date:* 8/20/21.

*Docket Numbers:* RP21–1033–000.

*Applicants:* Six One Commodities LLC, Six One Commodities Vega LLC.

*Description:* Joint Petition for Temporary Waiver of Capacity Release Regulations, et al. of Six One Commodities LLC, et al.

*Filed Date:* 8/13/21.

*Accession Number:* 20210813–5127.

*Comment Date:* 5 pm ET 8/25/21.

*Docket Numbers:* RP21–1034–000.

*Applicants:* Eastern Gas Transmission and Storage, Inc.

*Description:* § 4(d) Rate Filing: EGTS—August 16, 2021 Administrative Change to be effective 9/16/2021.

*Filed Date:* 8/16/21.

*Accession Number:* 20210816–5051.

*Comment Date:* 5 pm ET 8/30/21.

*Docket Numbers:* RP21–1035–000.

*Applicants:* Cove Point LNG, LP.

*Description:* § 4(d) Rate Filing: Cove Point—August 16, 2021 Administrative Filing to be effective 9/16/2021.

*Filed Date:* 8/16/21.

*Accession Number:* 20210816–5053.

*Comment Date:* 5 pm ET 8/30/21.

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.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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: August 17, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–18055 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC21–115–000.

*Applicants:* Fairbanks Solar Energy Center LLC, Fairbanks Solar Generation LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act of Fairbanks Solar Energy Center LLC, et al.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5058.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* EC21–116–000.

*Applicants:* Lick Creek Solar, LLC, PGR 2021 Lessee 5, LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act of Lick Creek Solar, LLC, et al.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5082.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* EC21–117–000.

*Applicants:* CA Flats Solar 130, LLC,CA Flats Solar 150, LLC, Imperial Valley Solar 3, LLC, Moapa Southern Paiute Solar, LLC, Kingbird Solar A, LLC, Kingbird Solar B, LLC, Solar Star California XIII, LLC, Solar Star Colorado III, LLC,64KT 8me LLC, Gulf Coast Solar Center II, LLC, Gulf Coast Solar Center III, LLC, Nicolis, LLC, Tropico, LLC, Avalon Solar Partners LLC, Townsite Solar, LLC, Citadel Solar, LLC,325MK 8ME, LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act of CA Flats Solar 130, LLC, et al.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5084.

*Comment Date:* 5 p.m. ET 9/7/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER20–716–005.

*Applicants:* LS Power Grid New York Corporation Inc, New York Independent System Operator, Inc.

*Description:* Compliance filing: LS Power Grid New York Corporation I submits tariff filing per 35: Compliance LSPGNY modification to the Formula rate template & effective date ntc to be effective 5/27/2020.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5067.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER20–2323–001.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Compliance filing: 2021–08–16_SA 3074 Compliance MPFCA Sub 1st Rev Twin Brooks Station (J436 J437) to be effective 6/30/2020.

*Filed Date:* 8/16/21.

*Accession Number:* 20210816–5190.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER20–2878–000; ER20–2878–010.

*Applicants:* Pacific Gas and Electric Company.

*Description:* Informational Filing to correct for Wholesale Distribution Rates for Western Area Power Administration effective July 1, 2021 of Pacific Gas and Electric Company.

*Filed Date:* 8/16/21.

*Accession Number:* 20210816–5237.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2185–001.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Amendment: Errata to correct metadata in ER21–2185–000, re: Section Title Parties to be effective 5/28/2021.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5103.

*Comment Date:* 5 p.m. ET 8/23/21.

*Docket Numbers:* ER21–2536–001.

*Applicants:* Public Service Company of Colorado.

*Description:* Tariff Amendment: 2021–08–17 Gen Rplcmt Coord Agrmt-Amnd to be effective 12/31/9998.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5071.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2696–000.

*Applicants:* NSTAR Electric Company.

*Description:* § 205(d) Rate Filing: Servistar LLC—Interconnection Study Agreement to be effective 8/17/2021.

*Filed Date:* 8/16/21.

*Accession Number:* 20210816–5185.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2697–000.

*Applicants:* Meyersdale Storage, LLC.

*Description:* Baseline eTariff Filing: Common Facilities Agreement Certificate of Concurrence to be effective 8/18/2021.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5012.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2699–000.

*Applicants:* Minco Wind Energy III, LLC.

*Description:* Baseline eTariff Filing: Minco Wind Energy III, LLC Application for Market-Based Rate Authority to be effective 10/17/2021.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5024.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2700–000.

*Applicants:* Northern Indiana Public Service Company LLC, Fairbanks Solar Generation LLC.

*Description:* Request for Authorization to Undertake Affiliate Sales of Northern Indiana Public Service Company LLC, et al.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5056.

*Comment Date:* 5 p.m. ET 9/7/2.

*Docket Numbers:* ER21–2701–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA, Service Agreement No. 6131; Queue No. AE2–042 to be effective 7/15/2021.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5073.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2702–000.

*Applicants:* Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

*Description:* § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2021–08–17_SA 3690 OTP-Minnkota Power FCA to be effective 8/16/2021.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5092.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* ER21–2703–000.

*Applicants:* Sky River LLC.

*Description:* Tariff Amendment: Sky River LLC Notice of Cancellation of Market-Based Rate Tariff to be effective 8/18/2021.

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5100.

*Comment Date:* 5 p.m. ET 9/7/21.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF21–425–000.

*Applicants:* Safari Energy, LLC.

*Description:* Refund Report of Safari Energy, LLC [Grafton Solar Park].

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5030.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* QF21–426–000.

*Applicants:* Safari Energy, LLC.

*Description:* Refund Report of Safari Energy, LLC [Montpelier Solar Park].

*Filed Date:* 8/17/21.

*Accession Number:* 20210817–5034.

*Comment Date:* 5 p.m. ET 9/7/21.

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: August 17, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–18056 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP21–481–000]**

### Tennessee Gas Pipeline Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on August 4, 2021, Tennessee Gas Pipeline Company, L.L.C. (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208 and 157.210 of the Commission's regulations under the Natural Gas Act (NGA) and Tennessee's blanket certificate issued in Docket No. CP82–413–000, for authorization to (1) replace the turbine, and install its associated ancillary equipment, and restage the compressor on the existing compressor unit, at its existing

Compressor Station 500C–1, located in Natchitoches Parish, Louisiana, and (2) increase north to south firm transportation capacity of Tennessee's existing 500–1, Kinder Natchitoches Line, by approximately 17,000 Dekatherms per day. Tennessee estimates the cost of the Project to be approximately $2.57 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to Debbie Kalisek, Senior Regulatory Analyst, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, at (713) 420–3292, or *debbie_kalisek@kindermorgan.com.*

**Public Participation**

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on October 12, 2021. How to file protests, motions to intervene, and comments is explained below.

*Protests*

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is October 12, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

*Interventions*

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is October 12, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

*Comments*

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before October 12, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

*How To File Protests, Interventions, and Comments*

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–481–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below.[7] Your submission must reference the Project docket number CP21–481–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: 1001 Louisiana Street, Houston, Texas 77002 or email (with a link to the document) at

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[7] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*debbie_kalisek@kindermorgan.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

**Tracking the Proceeding**

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: August 13, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–17958 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2101–175]**

## Sacramento Municipal Utility District; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-capacity amendment of license.

b. *Project No:* 2101–175.

c. *Date Filed:* July 30, 2021.

d. *Applicant:* Sacramento Municipal Utility District.

e. *Name of Project:* Upper American River Hydroelectric Project.

f. *Location:* The project is located on the Rubicon River, Silver Creek, and South Fork American River in El Dorado and Sacramento counties in central California. The project occupies federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Darold Perry, Supervisor, License Implementation, Sacramento Municipal Utility District, 3995 Old Carson Road, Pollock Pines, CA 95726, phone (530) 647–5010, *Darold.Perry@smud.org.*

i. *FERC Contact:* Elizabeth Moats, (202) 502–6631, *Elizabeth.Moats@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* September 13, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2101–175. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee seeks approval to decommission and remove from the project license the 450-kilowatt generating unit at the Slab Creek Powerhouse, a component of the Slab Creek/White Rock development. The applicant states that the benefits of the powerhouse do not outweigh the costs to rehabilitate the inoperable generating unit, which was damaged during a flood in 2017. No ground disturbing activities would occur. The licensee would permanently close the turbine water supply, remove water piping and oil containing equipment, and abandon the unit in place. The powerhouse would remain in place and the penstock would be retained and supply the required minimum flow releases.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this

proceeding, in accordance with 18 CFR 385.2010.

Dated: August 13, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–17954 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD21–10–000]**

### Modernizing Electricity Market Design; Supplemental Notice of Technical Conference on Energy and Ancillary Services in the Evolving Electricity Sector

As first announced in the Notice of Technical Conference issued in this proceeding on July 14, 2021, the Federal Energy Regulatory Commission (Commission) will convene a staff-led technical conference in the above-referenced proceeding on September 14, 2021, from approximately 9:00 a.m. to 5:00 p.m. Eastern time. The conference will be held remotely. Attached to this Supplemental Notice is an agenda for the technical conference. Commissioners may attend and participate in the technical conference.

The conference will be open for the public to attend remotely. There is no fee for attendance. Information on this technical conference, including a link to the webcast, will be posted on the conference's event page on the Commission's website (*https://www.ferc.gov/news-events/events/technical-conference-regarding-energy-and-ancillary-services-markets-09142021*) prior to the event. The conference will be transcribed. Transcripts will be available for a fee from Ace Reporting (202–347–3700).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact Emma Nicholson at *emma.nicholson@ferc.gov* or (202) 502–8741, or Alexander Smith at *alexander.smith@ferc.gov* or (202) 502–6601. For legal information, please contact Adam Eldean at *adam.eldean@ferc.gov* or (202) 502–8047. For information related to logistics, please contact Sarah McKinley at *sarah.mckinley@ferc.gov* or (202) 502–8368.

Dated: August 17, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–18007 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–2690–000]**

### PGR 2021 Lessee 5, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of PGR 2021 Lessee 5, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 7, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 17, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–18054 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–2689–000]**

### Lick Creek Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Lick Creek Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 7, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 17, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–18053 Filed 8–20–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Notice of WAPA Loan Determination and Administration; Transmission Infrastructure Program

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of WAPA loan determination and administration.

**SUMMARY:** The Western Area Power Administration (WAPA), a Federal power marketing administration of the United States Department of Energy (DOE), will be responsible for the loan determination and administration of loan applications submitted to its Transmission Infrastructure Program (TIP or Program) for use of WAPA's borrowing authority. This **Federal Register** notice (FRN) announces WAPA's revised role in performing all activities related to loan determination and administration.

**DATES:** This decision is effective as of August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacey Harris, Transmission Infrastructure Program, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228–8213, telephone (720) 962–7710 or email: *TIP@wapa.gov.*

This notice is available on WAPA's website at: *https://www.wapa.gov/FederalRegisterNotices/Pages/federal-register-notices.aspx.*

**SUPPLEMENTARY INFORMATION:** WAPA markets and transmits wholesale hydroelectric power generated at Federal dams across the western United States. WAPA's transmission system was developed to deliver Federal hydroelectric power to preference customers. WAPA owns and operates a transmission system with more than 17,000 circuit-miles of high voltage lines and markets power across 15 western states and a 1.3 million square-mile service area. WAPA's service area encompasses all the following states: Arizona, California, Colorado, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming; and parts of Iowa, Kansas, Montana, Minnesota, and Texas. WAPA markets excess capacity on its transmission system consistent with the policies and procedures outlined in its Open Access Transmission Tariff (OATT) on file with the Federal Energy Regulatory Commission. WAPA offers nondiscriminatory access to its transmission system, including requests to interconnect new generating resources to its transmission system, under its OATT.

WAPA's TIP implements Section 402 of the America Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), which amended Section 301 of the Hoover Power Plant Act of 1984. The Program uses the authority granted under these statutes to borrow up to $3.25 billion from the U.S. Department of the Treasury to construct, finance, facilitate, plan, operate, maintain, or study construction of new or upgraded electric power transmission lines and related facilities, with at least one terminus within WAPA's service territory. The projects must facilitate the delivery of power generated by renewable energy resources constructed, or reasonably expected to be constructed, demonstrate reasonable expectation of repayment, not adversely affect system reliability or operations and be in the public interest. The Program was announced in 2009 [1] and revised in 2014.[2]

The 2014 FRN established WAPA reliance on services and direction provided by DOE's Loan Programs Office (LPO) in setting out the financial terms of the lender-borrower relationship and the LPO would be responsible for administering the Project Finance Phase consisting of underwriting, financing, and loan monitoring and servicing. With the publication of this FRN, WAPA announces it has contracted with external parties to provide support in the performance of these services. The use of contractors provides TIP flexibility in scaling manpower up or down to match increased or decreased Program activities, while avoiding the need to create a fixed staff. Moreover, consistent with upholding the principle set forth in the 2014 FRN, loan applicants shall remain solely responsible for paying all costs associated with a loan.

### Signing Authority

This document of the Department of Energy was signed on August 17, 2021, by Tracey A. LeBeau, Interim Administrator, Western Area Power Administration, 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 August 18, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2021–17997 Filed 8–20–21; 8:45 am]

**BILLING CODE 6450–01–P**

[1] 74 FR 22732 (May 14, 2009).

[2] 79 FR 19065 (April 7, 2014).

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–ORD–2020–0675; FRL–8870–01–ORD]**

## Availability of the Draft IRIS Toxicological Review of Perfluorobutanoic Acid (PFBA) and Related Compound Ammonium Perfluorobutanoic Acid

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

**ACTION:** Notice of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing a 60-day public comment period associated with release of the IRIS Toxicological Review of Perfluorobutanoic acid (PFBA) and Related Compound Ammonium Perfluorobutanoic Acid. The draft document was prepared by the Center for Public Health and Environmental Assessment (CPHEA) within EPA's Office of Research and Development (ORD). EPA is releasing this draft IRIS assessment for public comment in advance of a contract-led peer review. Public comments received will be provided to the external peer reviewers. Eastern Research Group, Inc. (ERG), a contractor to EPA, will convene a public meeting to discuss the draft report with the public during Step 4 of the IRIS Process. The external peer reviewers will consider public comments submitted in response to this notice and provided at the public meeting when reviewing this document. EPA will consider all comments received when revising the document post-peer review. This draft assessment is not final as described in EPA's information quality guidelines, and it does not represent, and should not be construed to represent Agency policy or views.

**DATES:** The 60-day public comment period begins August 23, 2021 and ends October 22, 2021. Comments must be received on or before October 22, 2021.

**ADDRESSES:** The IRIS Toxicological Review of Perfluorobutanoic acid (PFBA) and Related Compound Ammonium Perfluorobutanoic Acid will be available via the internet on the IRIS website at *https://www.epa.gov/iris/iris-recent-additions* and in the public docket at *http://www.regulations.gov,* Docket ID No. EPA–HQ–ORD–2020–0675.

**FOR FURTHER INFORMATION CONTACT:** For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information on the IRIS Toxicological Review of Perfluorobutanoic acid (PFBA) and Related Compound Ammonium Perfluorobutanoic Acid, contact Ms. Vicki Soto, CPHEA; telephone: 202–564–3077; or email: *soto.vicki@epa.gov.* The IRIS Program will provide updates through the IRIS website (*https://www.epa.gov/iris*) and via EPA's IRIS listserv. To register for the IRIS listserv, visit the IRIS website (*https://www.epa.gov/iris*) or visit *https://www.epa.gov/iris/forms/staying-connected-integrated-risk-information-system#connect.*

**SUPPLEMENTARY INFORMATION:**

### I. Information on IRIS PFAS Assessments

Per- and polyfluoroalkyl substances (PFAS) are a large class of man-made chemicals widely used in consumer products and industrial processes. The basic structure of PFAS consists of a carbon chain surrounded by fluorine atoms, with different chemicals possessing different end groups. The five toxicity assessments being developed according to the scope and methods outlined in the publicly posted systematic review protocol (*https://cfpub.epa.gov/ncea/iris_drafts/recordisplay.cfm?deid=345065*) build upon several other PFAS assessments that have already been developed, and represent only one component of the broader PFAS action plan underway at the U.S. EPA (*https://www.epa.gov/pfas/epas-pfas-action-plan*).

### II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2020–0675 for the draft IRIS Toxicological Review of Perfluorobutanoic acid (PFBA) and Related Compound Ammonium Perfluorobutanoic Acid, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744. Due to COVID–19, there may be a delay in processing comments submitted by fax.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202–566–1752. Due to COVID–19, there may be a delay in processing comments submitted by mail.

**Note:** The EPA Docket Center and Reading Room may be closed to public visitors to reduce the risk of transmitting COVID–19. Docket Center staff will continue to provide remote customer service via email, phone, and webform. The public can submit comments via *www.Regulations.gov* or email. No hand deliveries are currently being accepted.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–ORD–2020–0675. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

*Docket:* Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at

the ORD Docket in the EPA Headquarters Docket Center.

**Timothy Watkins,**

*Acting Director, Center for Public Health & Environmental Assessment.*

[FR Doc. 2021–18029 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8881–01–ORD]**

## Request for Nominations of Experts for the Review of EPA's Draft Toxicological Reviews of Perfluorodecanoic Acid (PFDA), Perfluorononanoic Acid (PFNA), Perfluorohexanoic Acid (PFHxA), Perfluorohexanesulfonic acid (PFHxS), and Perfluorobutanoic acid (PFBA)

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

**ACTION:** Notice; request for nominations.

**SUMMARY:** The Environmental Protection Agency (EPA) Center for Public Health and Environmental Assessment (CPHEA) requests public nominations of scientific experts for the upcoming peer reviews of five Integrated Risk Information System (IRIS) assessments including: Perfluorodecanoic acid (PFDA; CASRN 335–76–2), perfluorononanoic acid (PFNA; CASRN 375–24–4), perfluorohexanoic acid (PFHxA, CASRN 307–24–4), perfluorohexanesulfonic acid (PFHxS, CASRN 355–46–4), and perfluorobutanoic acid (PFBA, CASRN 375–22–4), and their related salts which are all members of the group per- and polyfluoroalkyl substances (PFAS). Each assessment will undergo independent external scientific peer review managed by Eastern Research Group, Inc. (ERG), a contractor to EPA. A single peer review panel will review all five (5) PFAS IRIS assessments. Interested stakeholders will be provided 30-days to submit nominations for expert reviewers to ERG for their consideration.

**DATES:** The 30-day public comment period to provide nominations begins August 23, 2021 and ends September 22, 2021. Comments must be received on or before September 22, 2021.

**ADDRESSES:** Submit nominations by emailing them to *peerreview@erg.com* (subject line: EPA PFAS assessments peer review) at ERG no later than September 22, 2021. Please be advised that public comments are subject to release under the Freedom of Information Act, including communications on these nominations.

**FOR FURTHER INFORMATION CONTACT:**

*For general information please contact:* Vicki Soto, CPHEA; email: *soto.vicki@epa.gov.*

*For questions about the peer review, including the nomination process, please contact:* Laurie Waite, ERG, by email at *peerreview@erg.com* (subject line: EPA PFAS assessments peer review); or by phone: (781) 674–7362.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*Information on IRIS PFAS Assessments*

Per- and polyfluoroalkyl substances (PFAS) are a large class of man-made chemicals widely used in consumer products and industrial processes. The basic structure of PFAS consists of a carbon chain surrounded by fluorine atoms, with different chemicals possessing different end groups. The five IRIS toxicity assessments are being developed according to the scope and methods outlined in the publicly posted systematic review protocol (*https://cfpub.epa.gov/ncea/iris_drafts/recordisplay.cfm?deid=345065*) and they build upon several other PFAS assessments that have already been developed, and represent only one component of the broader PFAS action plan underway at the U.S. EPA (*https://www.epa.gov/pfas/epas-pfas-action-plan*).

EPA is releasing the announcement to notify the public of upcoming peer review activities related to five IRIS five per- and polyfluoroalkyl substances (PFAS) Integrated Risk Information System (IRIS) assessments including: Perfluorodecanoic acid (PFDA; CASRN 335–76–2), perfluorononanoic acid (PFNA; CASRN 375–24–4), perfluorohexanoic acid (PFHxA, CASRN 307–24–4), perfluorohexanesulfonic acid (PFHxS, CASRN 355–46–4), and perfluorobutanoic acid (PFBA, CASRN 375 22 4), and their related salts which are all members of the group per- and polyfluoroalkyl substances (PFAS). These documents will undergo independent external scientific peer review managed by ERG, a contractor to EPA. EPA has instructed ERG to formulate a single pool of eighteen (18) candidate external reviewers to provide independent external reviews of all five PFAS IRIS assessments. After consideration of peer reviewer nominations submitted to ERG in response to this FRN and after consideration of public comments on the List of Candidates (to be announced in a future FRN), ERG will select from this pool the final list of up to nine (9) peer reviewers in a manner consistent with EPA's Peer Review Handbook 4th Edition, 2015 (EPA/100/B–15/001). EPA will provide updates on the status of the peer review via the IRIS website (*https://www.epa.gov/iris*). EPA encourages all interested stakeholders to register for the IRIS listserv by visiting the IRIS website at *https://www.epa.gov/iris/forms/staying-connected-integrated-risk-information-system#connect.* Specific questions or comments on the peer review process should be directed to ERG.

### II. Information About This Peer Review

ERG is seeking nominations of nationally and internationally recognized scientists with demonstrated expertise and research on per- and polyfluoroalkyl substances (PFAS) in one or more of the following areas: Environmental epidemiology with experience in the application of systematic review principles to environmental exposures and/or immunotoxicity expertise; experimental toxicology with experience in the application of systematic review principles to environmental exposures and/or immunotoxicity expertise, hepatic effects, thyroid effects, developmental effects, biological mechanisms of human disease/health effects, and absorption, distribution, metabolism, and excretion (ADME) knowledge; and physiologically-based pharmacokinetic (PBPK) modeling, toxicokinetics, and dose-response modeling of animal data. Questions regarding this review should be directed to Laurie Waite, ERG, by email at *peerreview@erg.com* (subject line: EPA PFAS assessments peer review); or by phone: (781) 674–7362. For EPA, a balanced review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the peer review charge. In forming this expert panel, ERG will consider public comments on the List of Candidates, information provided by the candidates themselves, and background information. Selection criteria to be used for panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of any potential organizational or personal conflicts of interest; (d) skills working in committees, subcommittees and advisory panels; and, (e) for the panel as a whole, diversity of expertise and scientific points of view.

*Process and Deadline for Submitting Nominations:* Any interested person or organization may nominate qualified

individuals in the areas of expertise described above. Nominations should be submitted in electronic format to ERG via email: *peerreview@erg.com* (subject line: EPA PFAS assessments peer review). To receive full consideration, nominations should include all of the information requested below. ERG requests contact information about the person making the nomination; contact information about the nominee; the nominee's disciplinary and specific areas of expertise; the nominee's resume or curriculum vitae; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination procedures, or who are unable to submit nominations via email, should contact Laurie Waite, ERG, as noted above. ERG will acknowledge receipt of nominations. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** Notice along with additional experts identified by ERG will be posted on the IRIS website and will be available for public comment. The process for public comment on the pool of nominees will be announced in a subsequent **Federal Register** Notice, on the IRIS website, and through the IRIS Listserv.

**Timothy Watkins,**

*Acting Director, Center for Public Health & Environmental Assessment.*

[FR Doc. 2021–18030 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8810–01–OMS]**

### Cross-Media Electronic Reporting: Authorized Program Revision Approval, Gila River Indian Community

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

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of the Gila River Indian Community's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

**DATES:** EPA approves the authorized program revisions/modifications as of August 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Shirley M. Miller, U.S. Environmental Protection Agency, Office of Information Management, Mail Stop 2824T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566–2908, *miller.shirley@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, section 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On March 12, 2021, the Gila River Indian Community (GRIC) submitted an application titled IMPACT for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed GRIC's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve GRIC's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR is being published in the **Federal Register**:

Part 52: Approval and Promulgation of Implementation Plans (SIP/Clean Air Act Title II) Reporting under CFR 50–52

Part 60: Standards of Performance for New Stationary Sources (NSPS/CAR/Clean Air Act Title Ill) Reporting under CFR 60 & 65

Part 63: National Emission Standards for Hazardous Air Pollutants for Source Categories (NESHAP MACT/Clean Air Act Title Ill) Reporting under CFR 61, 63 & 65

Part 70: State Operating Permit Programs (Clean Air Act Title V) Reporting under CFR 64 & 70

GRIC was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Dated: August 10, 2021.

**Jennifer (Jennie) Campbell,**

*Director, Office of Information Management.*

[FR Doc. 2021–18085 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2018–0321; FRL–8888–01–OCSPP]**

### Chemical Data Reporting; Guidance for Preparing and Submitting a Petition; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of and soliciting public comment on guidance on the processes applicable to the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations: Petitions for full exemption of byproduct substances that are recycled or otherwise used within site-limited, physically enclosed systems and Petitions for partial exemption of chemicals for which the CDR processing and use information has been determined to be of ''low current interest'' by the Agency. This guidance is designed to elucidate the process and requirements of CDR-specific petitions and is consistent with both existing regulations and guidance. The CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report data on the manufacturing, processing, and use of the chemical substances.

**DATES:** Comments must be received on or before December 21, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0321, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets/about-epa-dockets.*

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

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Thomas Smith, Data Gathering and Analysis Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–7200; email address: smith.thomasa@*epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

You may be potentially affected by this action if you manufacture (including import) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to represent each industry sector or entity to which the guidance mentioned herein applies. The list is intended to serve as a guide to help readers determine whether the guidance applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, *e.g.,* chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, *e.g.,* utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

### *B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

## II. What action is the Agency taking?

EPA is announcing the availability of guidance on the two petition processes applicable to the TSCA CDR regulations and soliciting public comment on the guidance. The guidance covers petitions for:

- Full exemption of byproduct substances that are recycled or otherwise used within site-limited, physically enclosed systems (40 CFR 711.10(d)(1)) and
- Partial exemption of chemicals for which the CDR processing and use information has been determined to be of ''low current interest'' by the Agency (40 CFR 711.6(b)(2)).

The public comment period will be open for 120 days, but the public may consult this guidance immediately. These comments will be taken into consideration when determining if updating the guidance is appropriate as part of EPA's efforts of continuous improvement.

The CDR data include information on the manufacture (including import), industrial processing and use, and consumer and commercial use of certain chemicals currently included on the TSCA Inventory, a list of chemical substances manufactured or processed in the United States for nonexempt commercial purpose. Manufacturing, processing, and use information helps EPA screen and assess potential exposures to and risks of reported chemicals to human health and the environment. Certain chemicals for which processing and use information has been determined to be of ''low current interest'' by the Agency are partially exempted from reporting, and manufacturers of these chemicals are not required to provide information on the processing and use of their chemicals (only information on manufacturing (including import) is required). Additionally, certain chemicals, when produced as byproducts, may be fully exempted from reporting depending on how they are manufactured, processed, or used. Two separate petition processes exist for making amendments to the list of partially exempt chemical substances (40 CFR 711.6(b)(2)(iv)) or the list of processes and certain related byproduct substances (40 CFR 711.10(d)(1)(i)) that are fully exempted when they are recycled or otherwise used within site-limited, physically enclosed systems.

The primary goal of this guidance is to help the regulated community comply with the CDR rule requirements in relation to its applicable petition processes. This guidance identifies and clarifies examples of the types of information submitters can provide to the Agency in support of petitions for full or partial exemption from CDR rule requirements. This guidance is expected to make the requirements and process of submitting a CDR-specific petition more comprehensible, enabling petitioners to determine if a petition is appropriate and to better provide a petition containing the information needed for EPA to reach a determination. Ultimately, this guidance will help both parties to better meet regulatory deadlines associated with petition submission and response.

The byproduct exemption petition process was established as part of the CDR Revisions rulemaking of 2020 and the partial exemption petition process has been available since the Inventory Update Rule (IUR) Amendments rulemaking of 2003. The IUR is the predecessor to the CDR. During the Office of Management and Budget (OMB)-led interagency review for the CDR Revisions Rule, EPA agreed to make guidance particular to the new byproduct petition process available to help potential petitioners understand the types of information that a petition should include and to facilitate EPA's determination of whether certain types of manufacturing processes and associated byproduct substances meet the criteria of this exemption. The guidance was requested by OMB and by

some commenters during the associated public comment period (*e.g.,* in the docket, see the document entitled: ''Response to Public Comments on the Final TSCA Chemical Data Reporting (CDR) Revisions Rule,'' dated February 2020).

The information in this guidance is similar to and expands upon information that has already been available on the CDR website for the existing partial exemption petition process (40 CFR 711.6(b)(2)). Given that the new byproduct exemption petition process was modeled in part after the existing partial exemption petition process, EPA decided to have the guidance cover both petition processes.

**III. Does this guidance document contain binding requirements?**

As guidance, this document is not binding on the Agency or any outside parties, and the Agency may depart from it where circumstances warrant and without prior notice. While EPA has made every effort to ensure the accuracy of the discussion in the guidance, the obligations of EPA and the regulated community are determined by statutes, regulations, or other legally binding documents. In the event of a conflict between the discussion in the guidance document and any statute, regulation, or other legally binding document, the guidance document will not be controlling.

**IV. Is this guidance subject to the Paperwork Reduction Act (PRA)?**

This action does not contain any new or revised information collections or burden subject to additional OMB approval under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). Information collection activities contained in CDR are already approved by OMB under OMB Control No. 2070–0162 (EPA ICR No. 1884).

Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument, or form, as applicable.

The public reporting and recordkeeping burden associated with the submission of a petition under the CDR regulation is estimated to be 1 hour per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the Regulatory Support Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave. NW, Washington, DC 20460. Include the OMB control number in any correspondence. Do not send the completed form, petition or other information to this address.

(Authority: 15 U.S.C. 2607(a))

Dated: August 16, 2021.

**Michal Freedhoff,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2021–17950 Filed 8–20–21; 8:45 am]

**BILLING CODE 6560–50–P**

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### Agency Information Collection Activities: Extension Without Change of an Existing Collection; Comments Request

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC or Commission) announces that it is submitting to the Office of Management and Budget (OMB) a request for a three-year extension without change of the existing recordkeeping requirements under its regulations.

**DATES:** Written comments on this notice must be submitted on or before September 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Oram, Assistant Legal Counsel, at (202) 921–2665 or *kathleen.oram@eeoc.gov,* or Erin Norris, Senior Attorney, at (980) 296–1286 or *erin.norris@eeoc.gov.* Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 921–3191 (voice), (800) 669–6820 (TTY), or (844) 234–5122 (ASL Video Phone).

**SUPPLEMENTARY INFORMATION:** The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 (Title VII), Title I of the Americans with Disabilities Act (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which collectively prohibit discrimination on the basis of race, color, religion, sex, national origin, disability, or genetic information. Section 709(c) of Title VII, section 107(a) of the ADA, and section 207(a) of GINA authorize the EEOC to issue recordkeeping and reporting regulations that are deemed reasonable, necessary or appropriate. The EEOC has promulgated recordkeeping regulations under those authorities that are contained in 29 CFR part 1602. These regulations do not require the creation of any particular records but generally require employers and labor organizations to preserve any personnel and employment records they make or keep for a period of one year or two years, and possibly longer if a charge of discrimination is filed. The EEOC seeks an extension without change of OMB's clearance under the PRA of these recordkeeping requirements.

A notice that EEOC would be submitting this request was published in the **Federal Register** on May 26, 2021, allowing for a 60-day public comment period. One comment was received from the public; however, the comment did not address EEOC's recordkeeping requirements. Accordingly, no changes have been made to the requirements based upon the comment.

**Overview of Current Information Collection**

*Collection Title:* Recordkeeping Under Title VII, the ADA, and GINA.

*OMB Number:* 3046–0040.

*Description of Affected Public:* Employers and labor organizations subject to Title VII.

*Number of Respondents:* 989,379.

*Number of Reports Submitted:* 0.

*Estimated Burden Hours:* 162,223.

*Cost to Respondents:* $0.

*Federal Cost:* None.

*Number of Forms:* None.

*Abstract:* Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–8(c), section 107(a) of the ADA, 42 U.S.C. 12117(a), and section 207(a) of GINA, 42 U.S.C. 2000ff–6(a), direct the Commission to establish regulations pursuant to which entities subject to those Acts shall make and preserve certain records to assist the EEOC in ensuring compliance with the Acts' prohibitions on employment discrimination. Accordingly, the EEOC issued regulations setting out recordkeeping requirements for private

employers (29 CFR 1602.14); employers, labor organizations, and joint labor-management committees that control apprenticeship programs (29 CFR 1602.21(b)); labor organizations (29 CFR 1602.28(a)); state and local governments (29 CFR 1602.31); elementary and secondary school systems or districts (29 CFR 1602.40); and institutions of higher education (29 CFR 1602.49(a)). Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of section 706(b) and 709(e) of Title VII, which are also incorporated by reference into the ADA at section 107(a) and GINA at section 207(a).

*Burden Statement:* The estimated number of respondents subject to this recordkeeping requirement is 989,379 entities, which combines estimates from private employment,[1] the public sector,[2] colleges and universities,[3] apprenticeship programs,[4] and referral unions.[5] An entity subject to the recordkeeping requirement in 29 CFR part 1602 must retain all personnel or employment records, records relating to apprenticeship, or union membership or referral records made or kept by that entity for one year (private employers and referral unions) or two years (public sector, colleges and universities, apprenticeship programs), and must retain any records relevant to charges of discrimination filed under Title VII, the ADA, or GINA until final disposition of those matters, which may be longer than one or two years. This recordkeeping requirement does not require reports or the creation of new documents, but merely requires retention of documents that an entity has already made or kept in the normal course of its business operations. Thus, existing employers and labor organizations bear no burden under this analysis, because their systems for retaining these types of records are already in place. Newly formed entities may incur a small burden when setting up their data collection and retention systems to ensure compliance with EEOC's recordkeeping requirements. We assume some effort and time must be expended by new employers or labor organizations to familiarize themselves with Title VII, ADA, and GINA recordkeeping requirements and explain those requirements to the appropriate staff. We estimate that 30 minutes would be needed for this one-time familiarization process. Using projected business formation estimates from the U.S. Census Bureau for 2020 and the number of new apprenticeship programs established in 2020 provided by the Department of Labor, we estimate that there are 324,446 entities that would incur this start-up burden.[6] Assuming a 30-minute burden per entity, the total annual hour burden is 162,223 hours (.5 hour × 324,446 new entities = 162,223 hours).

For the Commission.

Dated: August 13, 2021.

**Charlotte A. Burrows,**

*Chair.*

[FR Doc. 2021–17931 Filed 8–20–21; 8:45 am]

**BILLING CODE 6570–01–P**

[1] Source of original data: 2017 Economic Census. *(https://www.census.gov/content/census/en/data/datasets/2017/econ/susb/2017-susb.html). Local Downloadable CSV data. Select U.S. & states, 6 digit NAICS. The original number of employers was adjusted to only include those with 15 or more employees.*

[2] Source of original data: 2017 Census of Governments: Employment. Individual Government Data File (*https://www.census.gov/data/tables/2017/econ/apes/annual-apes.html*), Local Downloadable Data zip file ''Individual Unit Files''. The original number of government entities was adjusted to only include those with 15 or more employees.

[3] Source: U.S. Department of Education, National Center for Education Statistics, IPEDS, Fall 2017. Postsecondary Institutions and Cost of Attendance in 2017–18; Degrees and Other Awards Conferred: 2016–17; and 12-Month Enrollment: 2016–17: First Look (Provisional Data), See Table 1, ''Number and percentage distribution of Title IV institutions, by control of institution, level of institution, and region: United States and other U.S. jurisdictions, academic year 2017–2018'' (*https://nces.ed.gov/pubSearch/pubsinfo.asp?pubid=2018060REV*).

[4] Source: U.S. Department of Labor. Registered Apprenticeship National Results Fiscal Year 2020. Number of active apprenticeship programs in 2020 (*https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2020*).

[5] EEO–3 Reports filed by referral unions in 2018 with EEOC.

[6] Sources: Business Formation Statistics from the U.S. Census Bureau (*https://www.census.gov/econ/bfs/index.html*). Total projected business formation statistics (series BF_PBF4Q) for 2020, across all industries, for the US, not seasonally adjusted; Department of Labor, New Apprenticeship programs for 2020 (*https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2020*).

## FEDERAL COMMUNICATIONS COMMISSION

**[DA 21–979; FR ID 43302]**

### Disability Advisory Committee; Announcement of Fourth Meeting

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Commission announces and provides an agenda for the second meeting of the fourth term of its Disability Advisory Committee (DAC or Committee).

**DATES:** Thursday, September 9, 2021. The meeting will come to order at 1:30 p.m. Eastern Time.

**ADDRESSES:** The DAC meeting will be held remotely, with video and audio coverage at *www.fcc.gov/live.*

**FOR FURTHER INFORMATION CONTACT:** Will Schell, Designated Federal Officer (DFO), at (202) 418–0767 or *DAC@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This meeting is open to members of the general public. The meeting will be webcast with American Sign Language interpreters and open captioning at: *www.fcc.gov/live.* In addition, a reserved amount of time will be available on the agenda for comments and inquiries from the public. Members of the public may comment or ask questions of presenters via the email address *livequestions@fcc.gov.*

Requests for other reasonable accommodations or for materials in accessible formats for people with disabilities should be submitted via email to: *fcc504@fcc.gov* or by calling the Consumer and Governmental Affairs Bureau at (202) 418–0530. Such requests should include a detailed description of the accommodation needed and a way for the FCC to contact the requester if more information is needed to fill the request. Requests should be made as early as possible; last minute requests will be accepted but may not be possible to accommodate.

*Proposed Agenda:* At this meeting, the DAC is expected to receive and consider reports and recommendations from its working groups. The DAC may also receive briefings from Commission staff on issues of interest to the Committee and may discuss topics of interest to the committee, including, but not limited to, matters concerning communications transitions, telecommunications relay services, emergency access, and video programming accessibility.

Federal Communications Commission.

**Suzanne Singleton,**

*Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau.*

[FR Doc. 2021–17960 Filed 8–20–21; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0508; FR ID 43942]**

### Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before October 22, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060–0508.

*Title:* Parts 1 and 22 Reporting and Recordkeeping Requirements.

*Form Number:* Not applicable.

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

*Respondents:* Business or other for-profit entities, Individuals or households, and State, Local or Tribal Governments.

*Number of Respondents and Responses:* 15,448 respondents; 16,166 responses.

*Estimated Time per Response:* 0.13 hours–10 hours.

*Frequency of Response:* Recordkeeping requirement; On occasion, quarterly, and semi-annual reporting requirements; Third-party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 222, 303, 309 and 332.

*Total Annual Burden:* 2,579 hours.

*Annual Cost Burden:* $19,116,900.

*Needs and Uses:* On August 16, 2013, the Federal Communications Commission (Commission) released a Third Report and Order (FCC 13–115) in MM Docket No. 93–177 to harmonize and streamline its rules regarding tower construction near AM stations. The reforms included establishing a single protection scheme for tower construction and modification near AM tower arrays. The Commission's rules previously contained several sections in different rule parts that addressed tower construction near AM antennas and were intended to protect AM stations from the effects of such tower construction, including (among others not relevant here), 47 CFR 22.371. With adoption of this Order, 47 CFR 22.371 was removed and was replaced by a new rule, 47 CFR 1.30002, which is not covered by this Supporting Statement.

On November 10, 2014, the Commission released a Report and Order and Further Notice of Proposed Rulemaking (FCC 14–181) in WT Docket No. 12–40 to reform its rules governing the 800 MHz Cellular Radiotelephone (Cellular) Service. In the Report and Order (Cellular R&O), the Commission changed the Cellular licensing model from site-based to geographic-based. The revised Cellular Service licensing model entailed eliminating several filing requirements that had outlived their usefulness in this mature commercial wireless service that was launched in the early 1980s; it also streamlined application content requirements, and deleted obsolete provisions associated with the legacy site-based regime.

Subsequently, on March 24, 2017, the Commission released a Second Report and Order in that same docket (Cellular Second R&O), together with a companion Report and Order in WT Docket No. 10–112 concerning the Wireless Radio Services (WRS), which include the Cellular Service among others (WRS R&O) (FCC 17–27). The Cellular Second R&O and WRS R&O revised or eliminated certain licensing rules and modernized outdated radiated power and other technical rules applicable to the Cellular Service. As part of FCC 17–27, the Commission also released a Second Further Notice of Proposed Rulemaking in which it sought comment on deleting certain recordkeeping and administrative rules applicable to the Public Mobile Services (including the Cellular Service), which are governed by Part 22 of the Commission's rules.

On July 13, 2018, the Commission released a Third report and Order in the Cellular Reform proceeding (Cellular 3d R&O) (FCC 18–92), in which it deleted certain Part 22 rules that either imposed administrative and recordkeeping burdens that are outdated and no longer serve the public interest, or that are largely duplicative of later-adopted rules and are thus no longer necessary. Among the rule deletions and of relevance to this information collection, the Commission deleted rule section 22.303, resulting in discontinued information collection for that rule section.

The Commission is now seeking approval from the Office of Management and Budget (OMB) for a revision of this information collection.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2021–18076 Filed 8–20–21; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0625, 3060–1050; FR ID 43428]**

### Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize

the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before October 22, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–0625.

*Title:* Section 24.103, Construction requirements.

*Form No.:* N/A.

*Type of Review:* Extension of a currently-approved collection.

*Respondents:* Business or other for-profit, individuals or household, not-for-profit institutions, and state, local or tribal government.

*Number of Respondents and Responses:* 9 respondents and 20 responses.

*Estimated Time per Response:* 3 hours.

*Frequency of Response:* Recordkeeping requirement, On occasion reporting requirement, 5 and 10 year reporting requirements.

*Obligation to Respond:* To ensure that licensees timely construct systems that either provide coverage to minimum geographic portions of their licensed areas, that provide service to minimum percentages of the population of those areas, or that, in the alternative, provide service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal.

*Total Annual Burden:* 23 hours.

*Annual Cost Burden:* $12,375.

*Privacy Act Impact Assessment:* Yes.

*Nature and Extent of Confidentiality:* There are no requests of a sensitive nature considered, or those considered a private matter, being sought from the applicants on this collection.

*Needs and Uses:* The information collection requirements contained in Section 24.103 require that certain narrowband PCS licensees notify Commission at specific benchmarks that they are in compliance with applicable construction requirements in order to ensure that these licensees quickly construct their systems and that, with those systems, they provide, within their respective licensed areas: Coverage to minimum geographic areas, service to minimum percentages of the population, or ''substantial service'' within ten years after license grant. The Commission is not currently collecting information from narrowband PCS licensees under Section 24.103 and does not expect to do so during the three year period for which it seeks extension of its current collection authority under that section. However, following the future auction of new narrowband PCS licenses, the reporting and recordkeeping requirements under this section will be used to satisfy the Commission's rule that such licensees demonstrate compliance with these construction requirements by the 5 and 10-year benchmarks established upon the grant date of each license. Without this information, the Commission would not be able to carry out its statutory responsibilities.

*OMB Control Number:* 3060–1050.

*Title:* Section 97.303, Frequency Sharing Requirements.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Individuals or households.

*Number of Respondents:* 5,000 respondents; 5,000 responses.

*Estimated Time per Response:* 20 minutes (.33 hours).

*Frequency of Response:* Recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154, 301, 302(a) and 303(c), and (f) of the Communications Act of 1934, as amended.

*Total Annual Burden:* 1,650 hours.

*Total Annual Cost:* No cost.

*Privacy Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection.

*Needs and Uses:* The Commission established a recordkeeping procedure in section 97.303(s) that required that amateur operator licensees using other antennas must maintain in their station records either manufacturer data on the antenna gain or calculations of the antenna gain.

The amateur radio service governed by 47 CFR part 97 of the Commission's rules, provides spectrum for amateur radio service licensees to participate in a voluntary noncommercial communication service which provides emergency communications and allows experimentation with various radio techniques and technologies to further the understanding of radio use and the development of technologies. The information collection is used to calculate the effective radiated power (ERP) that the station is transmitting to ensure that ERP does not exceed 100 W PEP.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2021–18077 Filed 8–20–21; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL HOUSING FINANCE AGENCY

**[No. 2021–N–9]**

### Proposed Collection; Comment Request

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** 60-Day notice of submission of information collection for approval from the Office of Management and Budget.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as ''Minimum Requirements for Appraisal Management Companies,'' which has been assigned control number 2590–0013 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on October 31, 2021.

**DATES:** Interested persons may submit comments on or before October 22, 2021.

**ADDRESSES:** Submit comments to FHFA, identified by ''Proposed Collection; Comment Request: Minimum Requirements for Appraisal Management Companies, (No. 2021–N–9)'' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.

• *Mail/Hand Delivery:* Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Minimum Requirements for Appraisal Management Companies, (No. 2021–N–9).''

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

**FOR FURTHER INFORMATION CONTACT:** Robert Witt, Senior Policy Analyst, Office of Housing and Regulatory Policy, *Robert.Witt@fhfa.gov,* (202) 649–3128; or Angela Supervielle, Counsel, *Angela.Supervielle@fhfa.gov,* (202) 649–3973 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The Telecommunications Device for the Deaf is (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** FHFA is seeking comments on its upcoming request to OMB to renew the PRA clearance for the following collection of information:

*Title:* Minimum requirements for appraisal management companies.

*OMB Number:* 2590–0013.

*Affected Public:* Participating states and state-registered Appraisal Management Companies.

## A. Need for and Use of the Information Collection

In 2015, FHFA, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (Board) (collectively, the Agencies) jointly issued regulations [1] to implement minimum statutory requirements to be applied by states in the registration and supervision of appraisal management companies (AMCs).[2] These minimum requirements apply to states that have elected to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs (participating states).[3]

The regulations also implement the statutory requirement that states report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) the information required by the ASC to administer the national registry of AMCs (AMC National Registry or Registry).[4] The AMC National Registry includes AMCs that are either: (1) Subsidiaries owned and controlled by an insured depository institution (as defined in 12 U.S.C. 1813) and regulated by either the FDIC, OCC, or Board (federally regulated AMCs); [5] or (2) registered with, and subject to supervision of, a state appraiser certifying and licensing agency.

FHFA's AMC regulation, located at Subpart B of 12 CFR part 1222, is substantively identical to the AMC regulations of the FDIC, OCC, and Board and contains the recordkeeping and reporting requirements described below.

*1. State Reporting Requirements (IC #1)*

The regulation requires that each state electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the state submit to the ASC the information regarding such AMCs required to be submitted by ASC regulations or guidance concerning AMCs that operate in the state.[6]

*2. State Recordkeeping Requirements (IC #2)*

States seeking to register AMCs must have an AMC registration and supervision program. The regulation requires each participating state to establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to: (i) Review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC's registration; (iii) examine an AMC's books and records and require the submission of reports, information, and documents; (iv) verify an AMC's panel members' certifications or licenses; (v) investigate and assess potential violations of laws, regulations, or orders; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.[7]

The regulation requires each participating state to impose requirements on AMCs that are not federally regulated (non-federally regulated AMCs) to: (i) Register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which the AMC operates; (ii) use only state-certified or state-licensed appraisers for federally regulated transactions in conformity with any federally regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Practice; and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with sections 129E(a) through (i) of the Truth-in-Lending Act.[8]

*3. AMC Reporting Requirements (IC #3)*

The regulation provides that an AMC may not be registered by a state or included on the AMC National Registry if the company is owned, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause.[9] The regulation also provides that an AMC may not be registered by a state if any person that owns 10 percent or more of the AMC fails to submit to a background investigation carried out by the state appraiser certifying and licensing

[1] The National Credit Union Administration and the Bureau of Consumer Financial Protection also participated in the joint rulemaking but, by agreement, the responsibility for clearance under the PRA of information collections contained in the joint regulations is shared only by the FDIC, OCC, Board, and FHFA.

[2] *See* 12 U.S.C. 3353(a). An AMC is an entity that serves as an intermediary for, and provides certain services to, appraisers and lenders.

[3] 12 U.S.C. 3346.

[4] *See* 12 U.S.C. 3353(e).

[5] *See* 12 CFR 1222.21(k) (defining ''Federally regulated AMC'').

[6] *See* 12 CFR 1222.26.

[7] *See* 12 CFR 1222.23(a).

[8] *See* 12 CFR 1222.23(b). Sections 129E(a) through (i) of the Truth-in-Lending Act are located at 15 U.S.C. 1639e(a)–(i).

[9] *See* 12 CFR 1222.24(a), 1222.25(b).

agency.[10] Thus, each AMC registering with a state must provide information to the state on compliance with those ownership restrictions. Further, the regulation requires that a federally regulated AMC report to the state or states in which it operates the information required to be submitted by the state pursuant to the ASC's policies, including policies regarding the determination of the AMC National Registry fee, and information regarding compliance with the ownership restrictions described above.[11]

*4. AMC Recordkeeping Requirements (IC #4)*

An entity meets the definition of an AMC that is subject to the requirements of the AMC regulation if, among other things, it oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state, or 25 or more state-certified or state-licensed appraisers in two or more states, within a given 12-month period.[12] For purposes of determining whether a company qualifies as an AMC under that definition, the regulation provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) The AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.[13] The AMC would retain these notices in its files.

**B. Burden Estimate**

For the information collections described above, the general methodology is to compute the industry wide burden hours for participating states and AMCs and then assign a share of the burden hours to each of the Agencies for each information collection.

As noted above, each of the Agencies' AMC regulations contains reporting and recordkeeping requirements applying to participating states and to both federally regulated and non-federally regulated AMCs. The Agencies have estimated that approximately 3,860 entities meet the regulatory definition of an ''appraisal management company.'' [14] Unlike the insured depository institutions regulated by the OCC, FDIC, and Board, none of FHFA's regulated entities owns or controls an AMC or, by law, could ever own or control an AMC. Accordingly, the Agencies have agreed that responsibility for the burdens arising from reporting and recordkeeping requirements imposed upon federally regulated AMCs are to be split evenly among the OCC, FDIC, and Board and that FHFA will not include those burdens in its totals. The four Agencies have agreed to split the total burdens imposed upon participating states and upon non-federally regulated AMCs evenly between them.

Thus, for ICs #1 and #2, which relate to reporting and recordkeeping requirements imposed upon participating states, each agency is responsible for 25 percent of the total estimated burden. For ICs #3 and #4, which relate to reporting and recordkeeping requirements imposed upon both federally regulated AMCs and non-federally regulated AMCs, the OCC, FDIC, and Board are each responsible for the 30 percent of the total burden, while FHFA is responsible only for 10 percent of the burden imposed.

The Agencies estimate the total annualized hour burden placed on respondents by the information collection in the joint AMC regulations to be 8,265 hours. FHFA estimates its share of the hour burden to be 859 hours. The calculations on which those estimations are based are described below.

*1. State Reporting Requirements (IC #1)*

The total estimated burden hours for states reporting to the ASC are calculated by multiplying the number of states by the hour burden per state. The burden hours are then divided equally among the FDIC, OCC, Board, and FHFA, with each agency responsible for 25 percent of the total. For purposes of this calculation, the number of states is set at 55 which, in conformity with the regulatory definition of ''state,'' includes all 50 U.S. states as well as the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.[15] The burden estimate of 1 hour per report is unchanged from the estimate provided for the currently-approved ICR. Therefore, the estimated total state reporting burden attributable to all of the Agencies is: 55 states × 1 hour/state = 55 hours. The estimated burden hours attributable to FHFA are 55 hours × 25 percent = 14 hours (rounded to the nearest whole number).

*2. State Recordkeeping Requirements (IC #2)*

The estimated burden hours on participating states for developing and maintaining an AMC licensing program is calculated by multiplying the number of states without a registration and licensing program by the hour burden to develop the system. The total burden hours are then equally divided among the FDIC, OCC, Board, and FHFA. According to the ASC there are four states (the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) that have not developed a system to register and oversee AMCs.[16] The burden estimate of 40 hours per state without a registration system is unchanged from the estimate provided for the currently-approved ICR. Therefore, the total estimated burden attributable to all of the Agencies is: 4 states × 40 hours/state = 160 hours. The estimated burden hours attributable to FHFA are 160 hours × 25 percent = 40 hours.

*3. AMC Reporting Requirements (IC #3)*

The burden for AMC reporting requirements for information needed to determine the AMC National Registry fee and information regarding compliance with the AMC ownership restrictions is calculated by multiplying the number of AMCs by the frequency of response and then by the burden per response. As described above, 30 percent of the burden hours are then assigned to each of the FDIC, OCC, and Board, while 10 percent are assigned to FHFA.

The frequency of response is estimated as the number of states that do not have an AMC registration program in which the average AMC operates.[17] As discussed above, 4 states do not have AMC registration or oversight programs. According to the Consumer Financial Protection Bureau (CFPB), the average AMC operates in 19.56 states.[18] Therefore, the average AMC operates in approximately 2 states that do not have AMC registration systems: (4 states/55 states) × 19.56 states = 1.422 states, rounded to 2 states. The burden estimate of one hour per response is unchanged from the

[10] *See* 12 CFR 1222.24(b).

[11] *See* 12 CFR 1222.25(c).

[12] *See* 12 CFR 1222.21(c)(1)(iii).

[13] *See* 12 CFR 1222.22(b).

[14] In FHFA's regulations, this definition is set forth at 12 CFR 1222.21(c).

[15] *See* 12 CFR 1222.21(o).

[16] Appraisal Subcommittee ''States' Status on Implementation of AMC Programs,'' available at *https://www.asc.gov/National-Registries/StatesStatus.aspx.*

[17] The number of states includes all U.S. states, territories, and districts to include: The Commonwealth of the Northern Mariana Islands; the District of Columbia; Guam; Puerto Rico; and the U.S. Virgin Islands.

[18] The CFPB conducted a survey of 9 AMCs in 2013 regarding the provisions in the regulation and the related PRA burden.

estimate provided for the currently-approved ICR. Therefore, the total estimated hour burden is: 3,860 AMCs × 2 states × 1 hour = 7,720 hours. The estimated burden hours attributable to FHFA are 7,720 hours × 10 percent = 772 hours.

*4. AMC Recordkeeping Requirements (IC #4)*

The burden for recordkeeping by AMCs of written notices of appraiser removal from a network or panel is estimated to be equal to the number of appraisers who leave the profession per year multiplied by the estimated percentage of appraisers who work for AMCs, then multiplied by burden hours per notice. As described above, 30 percent of the burden hours are then assigned to each of the FDIC, OCC, and Board, while 10 percent are assigned to FHFA.

The number of appraisers who leave an AMC annually, either by resigning, being laid off, or having their licenses revoked or surrendered, is estimated to be 4,130. The burden estimate of 0.08 hours per notice is unchanged from the estimate provided for the currently-approved ICR. Therefore, the estimated total hour burden is: 4,130 notices × 0.08 hours = 330 hours (rounded to the nearest whole number). The estimated burden hours attributable to FHFA are 330 hours × 10 percent = 33 hours.

**C. Comments Request**

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

**Kevin Smith,**

*Chief Information Officer, Federal Housing Finance Agency.*

[FR Doc. 2021–17971 Filed 8–20–21; 8:45 am]

**BILLING CODE 8070–01–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 September 7, 2021.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Robert F. Hingst, Kokomo, Indiana; and Ann Hingst Vyas and Amit Vyas, both of Chicago, Illinois;* to become members of the Hingst Family Control Group, a group acting in concert, to acquire voting shares of Community First Financial Corporation and thereby indirectly acquire voting shares of Community First Bank of Indiana, both of Kokomo, Indiana.

Board of Governors of the Federal Reserve System, August 18, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–18087 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 7, 2021.

*A. Federal Reserve Bank of Minneapolis* (Chris P. Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Peter J. Nelson Trust (in formation), Kari A.M. Nelson, as trustee, both of Glenwood, Minnesota;* to join the Nelson-Martinson Family Shareholder Group, a group acting in concert, to acquire voting shares of Financial Services of Lowry, Inc., Lowry, Minnesota, and thereby indirectly retain voting shares of Lowry State Bank, Lowry, Minnesota and First National Bank of Osakis, Osakis, Minnesota.

Board of Governors of the Federal Reserve System, August 18, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–18002 Filed 8–20–21; 8:45 am]

**BILLING CODE 6210–01–P**

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0317; Docket No. 2021–0001; Sequence No. 7]**

### Information Collection; Notarized Document Submittal for System for Award Management Registration

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Notice of request for comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management

and Budget (OMB) a request to review and approve an existing OMB clearance regarding a notarized document submittal for System for Award Management (SAM) Registration.

**DATES:** Submit comments on or before October 22, 2021.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for the OMB Control number 3090–0317. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0317; Notarized Document Submittal for System for Award Management Registration''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0317; Notarized Document Submittal for System for Award Management Registration'' on your attached document.

*Instructions:* Please submit comments only and cite Information Collection 3090–0317; Notarized Document Submittal for System for Award Management Registration, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Nancy Goode, Integrated Award Environment, GSA, 703–605–2175, or via email at *nancy.goode@gsa.gov*.

**SUPPLEMENTARY INFORMATION:** Federal Acquisition Regulation (FAR) Subpart 4.11 prescribes policies and procedures for requiring contractor registration in the System for Award Management (SAM) database to: (1) Increase visibility of vendor sources (including their geographical locations) for specific supplies and services; and (2) establish a common source of vendor data for the Government.

In the past, the GSA Office of Inspector General (OIG) conducted an investigation into fraudulent activities discovered within SAM. Certain bad actors have, through electronic means, used public information to impersonate legitimate entities and established new entity registrations for those entities in SAM. By establishing fraudulent entity registrations, bad actors submitted bids in certain U.S. Government procurement systems or shipped deficient or counterfeit goods to the U.S. Government.

GSA established this information collection request (ICR) to collect additional information to support increased validation of entities registered and registering in the System for Award Management (SAM). This additional information is contained in a notarized letter in which an officer or other signatory authority of the entity formally appoints the Entity Administrator for the entity registering or recertifying in SAM. The original, signed letter is mailed to the Federal Service Desk for SAM prior to the registration's activation or re-registration.

The collection of the notarized letter information is essential to GSA's acquisition mission to meet the needs of all federal agencies, as well as the needs of the grant community. A key element of GSA's mission is to provide efficient and effective acquisition solutions across the Federal Government. SAM is essential to the accomplishment of that mission. In addition to federal contracts, federal assistance programs also rely upon the integrity and security of the information in SAM. Without assurances that the information in SAM is protected and is at minimal risk of compromise, GSA would risk losing the confidence of the federal acquisition and assistance communities which is serves. As a result, some entities may prefer not to do business with the Federal Government.

**B. Annual Reporting Burden**

*Respondents:* 686,400.
*Responses per Respondent:* 1.
*Total Annual Responses:* 686,400.
*Hours per Response:* 2.25.
*Total Burden Hours:* 1,544,400.

The information collection allows GSA to request the notarized letter and apply this approach to new registrants (an average of 7,200 per month) and to existing SAM registrants (an average of 50,000 re-register per month).

Entities registered and registering in SAM are provided the template for the requirements of the notarized letter. It is estimated that the Entity Administrator will take on average 0.5 hour to create the letter and 0.25 hour to mail the hard copy letter. GSA proposes that an Entity Administrator equivalent to a GS–5, Step 5 Administrative Support person within the Government would perform these tasks. The estimated hourly rate of $24.70 (Base + Locality + Fringe) was used for the calculation.

Based on historical data of the ratio of small entities to other than small entities registering in SAM, GSA approximates 32,200 of the 57,200 new and existing entities (re-registrants) will have in-house resources to notarize documents. GSA proposes that the entities with in-house notaries will typically be large businesses where the projected salary of the executive or officer responsible for signing the notarized letter is on average approximately $150 per hour. The projected time for signature and notarizing the letter internally is 0.5 hour.

The other remaining 25,000 new and existing entities (re-registrants) per month are estimated to be small entities where the projected salary of the executive or officer responsible signing the notarized letter is on average approximately $100 per hour. These entities will more than likely have to obtain notary services from an outside source. The projected time for signature and notarizing the letter externally is 1 hour. The estimate includes a nominal fee ($5.00) usually charged by third-party notaries.

**C. Public Comments**

Public comments are particularly invited on: Whether this collection of information is necessary, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

*Obtaining Copies of Proposals:* Requesters may obtain a copy of the information collection documents from the Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0317, Notarized Document Submittal for System for Award Management Registration, in all correspondence.

**Beth Anne Killoran,**

*Deputy Chief Information Officer.*

[FR Doc. 2021–18022 Filed 8–20–21; 8:45 am]

**BILLING CODE 6820–WY–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2007–D–0369]**

### Product-Specific Guidances; Draft and Revised Draft Guidances for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific guidances. The guidances provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website. The guidances identified in this notice were developed using the process described in that guidance.

**DATES:** Submit either electronic or written comments on the draft guidances by October 22, 2021 to ensure that the Agency considers your comment on these draft guidances before it begins work on the final versions of the guidances.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2007–D–0369 for ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

**FOR FURTHER INFORMATION CONTACT:** Christine Le, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4714, Silver Spring, MD 20993–0002, 301–796–2398, *PSG-Questions@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs.*

As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific guidances and provide a meaningful opportunity for the public to consider and comment on those guidances. Under that process, draft guidances are posted on FDA's website and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final guidances or publishes revised draft guidances for comment. Guidances were last announced in the **Federal Register**

on May 20, 2021 (86 FR 27447). This notice announces draft product-specific guidances, either new or revised, that are posted on FDA's website.

## II. Drug Products for Which New Draft Product-Specific Guidances Are Available

FDA is announcing the availability of new draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

| Active ingredient(s) |
|---|
| Acyclovir |
| Albuterol sulfate; Ipratropium bromide |
| Amisulpride |
| Avapritinib |
| Carbinoxamine maleate |
| Cefiderocol sulfate tosylate |
| Copper dotatate Cu-64 |
| Esomeprazole magnesium |
| Estradiol |
| Ethinyl estradiol; Levonorgestrel |
| Fostemsavir tromethamine |
| Indomethacin |
| Ipratropium bromide |
| Lasmiditan succinate |
| Leuprolide acetate |
| Loteprednol etabonate |
| Olodaterol hydrochloride |
| Osilodrostat phosphate |
| Ozanimod hydrochloride |
| Paliperidone palmitate |
| Semaglutide |
| Sufentanil citrate |
| Tazemetostat hydrobromide |

## III. Drug Products for Which Revised Draft Product-Specific Guidances Are Available

FDA is announcing the availability of revised draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

| Active ingredient(s) |
|---|
| Bexarotene |
| Budesonide |
| Eltrombopaq olamine (multiple referenced listed drugs) |
| Ferric citrate |
| Letrozole |
| Leuprolide acetate (multiple referenced listed drugs) |
| Liothyronine sodium |
| Loteprednol etabonate |
| Nystatin |
| Orlistat |
| Paclitaxel |
| Podofilox |

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS—Continued

| Active ingredient(s) |
|---|
| Sodium zirconium cyclosilicate |
| Tazarotene |

For a complete history of previously published **Federal Register** notices related to product-specific guidances, go to *https://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on, among other things, the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## IV. Paperwork Reduction Act of 1995

FDA tentatively concludes that these draft guidances contain no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## V. Electronic Access

Persons with access to the internet may obtain the draft guidances at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs*, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.regulations.gov*.

Dated: August 18, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–18072 Filed 8–20–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2021–N–0359]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments (including recommendations) on the collection of information by September 22, 2021.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0858. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

*OMB Control Number 0910–0858—Revision*

This information collection supports implementation of sections 503A and 503B of the Federal Food, Drug, and

Cosmetic Act (FD&C Act) (21 U.S.C. 353a and 21 U.S.C. 353b), which govern compounding by pharmacies, outsourcing facilities, and other entities. Compounding is generally a practice in which a licensed pharmacist, a licensed physician, or, in the case of an outsourcing facility, a person under the supervision of a licensed pharmacist, combines, mixes, or alters ingredients of a drug to create a medication tailored to the needs of an individual patient. Although compounded drugs can serve an important medical need for certain patients, they also present risks to patients. Our compounding program aims to protect patients from unsafe, ineffective, and poor quality compounded drugs, while preserving access to lawfully-marketed compounded drugs for patients who have a medical need for them. Respondents to the information collection are pharmacies, outsourcing facilities, and other entities.

To assist respondents in complying with statutory requirements, we have issued the following topic-specific guidance documents:

TABLE 1—PUBLISHED GUIDANCE DOCUMENTS REGARDING SECTIONS 503A AND 503B OF THE FD&C ACT

| Title | Notice of availability publication date |
|---|---|
| Compounding and Repackaging of Radiopharmaceuticals by State-Licensed Nuclear Pharmacies, Federal Facilities, and Certain Other Entities (''*Radiopharmaceutical Compounding and Repackaging Guidance*''). | September 26, 2018 (83 FR 48633). |
| Compounding and Repackaging of Radiopharmaceuticals by Outsourcing Facilities (''*Radiopharmaceutical Outsourcing Repackaging Guidance*''). | September 26, 2018 (83 FR 48630). |
| Repackaging of Certain Human Drug Products by Pharmacies and Outsourcing Facilities (''*Repackaging Guidance*''). | January 13, 2017 (82 FR 4343). |
| Mixing, Diluting, or Repackaging Biological Products Outside the Scope of an Approved Biologics License Application (''*Biologics Guidance*''). | January 19, 2018 (83 FR 2787). |

These guidance documents were issued consistent with our Good Guidance Practice regulations in 21 CFR part 10.115 which provide for public comment at any time. The guidance documents communicate our current thinking on the respective topics and include information collection that may result in expenditures of time and effort by respondents. In our notices of availability we also solicited public comment under the PRA on the information collection provisions. FDA has developed and maintains a searchable guidance database available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* Guidance documents covered by this information collection may be found by choosing ''Center for Drug Evaluation and Research'' from among the FDA Organizations, and by selecting the term ''Compounding'' from among the possible ''Topic'' filters.[1] For efficiency of operations we are consolidating the related information collections.

**Compounding and Repackaging of Radiopharmaceuticals by State-Licensed Nuclear Pharmacies, Federal Facilities, and Certain Other Entities**

Because Congress explicitly excluded radiopharmaceuticals from section 503A of the FD&C Act (see section 503A(d)(2)), compounded radiopharmaceuticals are not eligible for the exemptions under section 503A from section 505 of the FD&C Act (21 U.S.C. 355) (concerning new drug approval requirements), section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) (concerning labeling with adequate directions for use), and section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)B)) (concerning current good manufacturing practice (CGMP) requirements). In addition, the FD&C Act does not provide an exemption for repackaged radiopharmaceuticals. This guidance document describes the conditions under which FDA does not intend to take action for violations of sections 505, 502(f)(1), and 501(a)(2)(B) of the FD&C Act when a state-licensed nuclear pharmacy, Federal facility, or other facility that is not an outsourcing facility and that holds a radioactive materials license for medical use issued by the Nuclear Regulatory Commission or by an Agreement State compounds or repackages radiopharmaceuticals for human use. The guidance explains that one condition is that the compounded radiopharmaceutical is not essentially a copy of an approved radiopharmaceutical. As described in the guidance, FDA does not intend to consider a compounded radiopharmaceutical to be essentially a copy if, among other reasons, there is a change between the compounded radiopharmaceutical and the approved radiopharmaceutical that produces a clinical difference for an identified individual patient, as determined by the prescribing practitioner and documented in writing on the prescription or order. In addition, FDA does not intend to consider a compounded radiopharmaceutical to be essentially a copy if the FDA-approved radiopharmaceutical is on FDA's drug shortage list (see section 506E of the FD&C Act (21 U.S.C. 356e)) at the time of compounding and distribution. If the facility compounded a drug that is identical or nearly identical to an approved drug product that appeared on FDA's drug shortage list, the facility should maintain documentation (*e.g.,* a notation on the order for the compounded drug) regarding the status of the drug on FDA's drug shortage list at the time of compounding, distribution, and dispensing.

**Radiopharmaceutical Outsourcing Repackaging Guidance**

In contrast to section 503A, section 503B of the FD&C Act does not exclude radiopharmaceuticals. Therefore, FDA's overall policies regarding section 503B apply to the compounding of radiopharmaceutical drug products. However, we have developed specific policies that apply only to the compounding of radiopharmaceuticals by outsourcing facilities using bulk drug substances and to the compounding of radiopharmaceuticals by outsourcing facilities that are essentially copies of approved drugs when such compounding is limited to minor deviations, as that term is defined in the guidance. FDA issued this guidance in part to describe the conditions under which the Agency does not generally intend to take action for violations of sections 505 and 502(f)(1) of the FD&C Act when an outsourcing facility repackages radiopharmaceuticals for human use.

[1] Guidance documents applicable to animal drug compounding regulated by our Center for Veterinary Medicine would also be returned if no FDA Organization is selected; this information collection covers only those Compounding documents issued by the Center for Drug Evaluation and Research.

As discussed in the guidance, one condition is that if a radiopharmaceutical is repackaged by an outsourcing facility, the label on the immediate container (primary packaging, *e.g.,* the syringe) of the repackaged product includes certain information. The guidance also provides that the label on the container from which the individual units are removed for administration (secondary packaging, *e.g.,* the bag, box, or other package in which the repackaged products are distributed) includes: (1) The active and inactive ingredients, if the immediate product label is too small to include this information, and directions for use, including (as appropriate) dosage and administration and (2) the following information to facilitate adverse event reporting: and 1–800–FDA–1088.

**Repackaging Guidance**

This guidance describes the conditions under which FDA does not intend to take action for violations of sections 505 (concerning new drug applications), 502(f)(1) (concerning labeling with adequate directions for use), 582 ((21 U.S.C. 360eee–1) concerning drug supply chain security requirements), and (where specified in the guidance) section 501(a)(2)(B) of the FD&C Act (concerning CGMPs), when a state-licensed pharmacy, Federal facility, or outsourcing facility repackages certain prescription drug products. One condition discussed in the guidance is that if a drug is repackaged by an outsourcing facility, the label on the immediate container (primary packaging, *e.g.,* the syringe) of the repackaged product includes certain information described in the guidance.

Another condition discussed in the guidance is that the label on the container from which the individual units are removed for administration (secondary packaging, *e.g.,* the bag, box, or other package in which the repackaged products are distributed) includes: (1) The active and inactive ingredients, if the immediate product label is too small to include this information, and directions for use, including (as appropriate) dosage and administration, (2) directions for use, including, as appropriate, dosage and administration, and (3) the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088.

**Biologics Guidance**

Certain licensed biological products may sometimes be mixed, diluted, or repackaged in a way not described in the approved labeling for the product to meet the needs of a specific patient. As described in the guidance, biological products subject to licensure under section 351 of the Public Health Service (PHS) Act (42 U.S.C. 262) are not eligible for the statutory exemptions available to certain compounded drugs under sections 503A and 503B of the FD&C Act. In addition, a biological product that is mixed, diluted, or repackaged outside the scope of an approved Biologics License Application (BLA) is considered an unlicensed biological product under section 351 of the PHS Act.

This guidance document describes several conditions under which FDA does not intend to take action for violations of section 351 of the PHS Act and sections 502(f)(1), 582, and (where specified) 501(a)(2)(B) of the FD&C Act, when a State-licensed pharmacy, a Federal facility, or an outsourcing facility dilutes, mixes, or repackages certain biological products outside the scope of an approved BLA.

One condition discussed in the guidance is that if the labeling for the licensed biological product includes storage instructions, handling instructions, or both (for example, protect from light, do not freeze, keep at specified storage temperature), the labeling for the biological product that is mixed, diluted, or repackaged specifies the same storage conditions. Another condition described in the guidance is that, if the biological product is mixed, diluted, or repackaged by an outsourcing facility, the label on the immediate container (primary packaging, for example, the syringe) of the mixed, diluted, or repackaged product includes certain information described in the guidance. In addition, the guidance communicates that as a condition for biological products mixed, diluted, or repackaged by an outsourcing facility that, if the immediate product label is too small to bear the active and inactive ingredients, such information is included on the label of the container from which the individual units are removed for administration (secondary packaging, for example, the bag, box, or other package in which the mixed, diluted, or repackaged biological products are distributed).

The guidance also communicates our thinking about the condition for biological products mixed, diluted, or repackaged by an outsourcing facility that the label on the container from which the individual units are removed for administration include directions for use. These directions include, as appropriate, the dosage and administration and the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088.

Finally, another condition described in the guidance is that outsourcing facilities maintain records of the testing performed in accordance with ''Appendix A—Assigning a BUD for Repackaged Biological Products Based On Stability Testing'' of the guidance for biological products repackaged by outsourcing facilities for which the beyond use date (BUD) is established based on a stability program conducted in accordance with Appendix A.

Section III.C of the guidance, ''Licensed Allergenic Extracts for Subcutaneous Immunotherapy,'' discusses the preparation of prescription sets (that is, licensed allergenic extracts that are mixed and diluted to provide subcutaneous immunotherapy to an individual patient) by a physician, a State-licensed pharmacy, a Federal facility, or an outsourcing facility. Another condition described in the guidance is that if the prescription set is prepared by an outsourcing facility, the label of the container from which the individual units of the prescription set are removed for administration (secondary packaging) includes the following information to facilitate adverse event reporting: *https://www.fda.gov/medwatch* and 1–800–FDA–1088. Each prescription set prepared by an outsourcing facility is also accompanied by instructions for use.

In the **Federal Register** of April 29, 2021 (86 FR 22674), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of the information collection as follows:

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| Activity | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| **Radiopharmaceutical Guidance** | | | | | |
| Consultation between the compounder and prescriber and the notation on the prescription or order documenting the prescriber's determination of clinical difference. | 10 | 25 | 250 | .05 (3 minutes). | 12.5 |
| **Radiopharmaceutical Outsourcing And Repackaging Guidance** | | | | | |
| Designing, testing, and producing each label on immediate containers, packages and/or outer containers. | 2 | 5 | 10 | 0.5 (30 minutes). | 5 |
| **Repackaging Guidance** | | | | | |
| Designing, testing, and producing each label on immediate containers, packages, and/or outer containers. | 6 | 21 | 126 | 1 | 126 |
| Biannual product reports identifying drug products repackaged by the outsourcing facility during the previous 6-month period (Guidance Section III.A.). | 3 | 4 | 12 | 3 | 24 |
| **Biologics Guidance** | | | | | |
| Designing, testing, and producing the label, container, packages, and/or outer containers for each mixed, diluted, or repackaged biological product. | 15 | 5 | 75 | 0.5 (30 minutes). | 37.5 |
| Designing, testing, and producing each label on immediate containers, packages and/or outer containers for each licensed allergenic extract. | 5 | 300 | 1,500 | 0.5 (30 minutes). | 750 |
| Maintaining records of testing performed in accordance with Biologics Guidance Appendix A. | 5 | 30 | 150 | 0.083 (5 minutes). | 12.5 |
| Total | | | 2,123 | | 967.5 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As defined in 44 U.S.C. 3502(13), the term ''recordkeeping requirement'' means a requirement imposed on respondents to maintain specified records, as well as a requirement to ''retain such records; notify third parties, the Federal Government, or the public of the existence of such records; disclose such records to third parties, the Federal Government, or the public; or report to third parties, the Federal Government, or the public regarding such records.'' For purposes of our analysis, therefore, we have characterized the burden associated with the time and effort expended on the information collection recommendations discussed in the respective guidance documents as recordkeeping activities. At the same time, our findings show that compliance with recordkeeping requirements applicable to compounded and repackaged drug products is standard practice in the compounding and selling of these drug products under States' pharmacy laws and other State laws governing recordkeeping by healthcare professionals and healthcare facilities. We have therefore excluded from our estimate recordkeeping practices discussed in the respective guidance documents we consider usual and customary. We invite comment on this assumption.

**Radiopharmaceutical Compounding and Repackaging Guidance**

We estimate 10 compounders annually will consult a prescriber to determine whether a compounded radiopharmaceutical has a change that produces a clinical difference for an identified individual patient as compared to the comparable approved radiopharmaceutical. We estimate that those compounders will document this determination on 250 prescriptions or orders for compounded radiopharmaceuticals. We assume consultation between the compounder and the prescriber and noting this determination on each prescription or order that does not already document this determination will take 3 minutes (0.05 hours) per prescription or order, for a total of approximately 12.5 hours.

**Radiopharmaceutical Outsourcing and Repackaging Guidance**

We estimate a total of 2 outsourcing facilities annually will each design, test, and produce an average of 5 different labels for a total of 10 labels, as described in the guidance (including directions for use). We assume that designing, testing, and producing each label will take 30 minutes (0.5 hours) for each repackaged radiopharmaceutical, for a total of 5 hours. We consider that the provision to include ''*https://www.fda.gov/medwatch*'' and ''1–800–FDA–1088'' is not a collection of information as defined in 5 CFR 1320.3(c)(2) and is therefore exempt from OMB review and approval under the PRA.

**Repackaging Guidance**

Based on current data for outsourcing facilities, we estimate 6 outsourcing facilities annually will submit an initial report identifying all drugs repackaged in the facility in the previous year. For the purposes of this estimate, each product's structured product labeling (SPL) submission is considered a separate response and therefore each facility's product report will include multiple responses. Taking into account that a particular product that is repackaged may come in different strengths and can be reported in a single

SPL response, we estimate that each facility will average approximately 6 products.

Similarly, we estimate that 6 outsourcing facilities will submit an initial report identifying all drugs repackaged in the facility in the past year. Taking into account that a particular product that is repackaged may come in different strengths and can be reported in a single SPL response, we assume that each facility will average 6 products. Our estimate is based on current product reporting data. We expect that each product report will consist of multiple SPL responses per facility and assume preparing and electronically submitting this information will take up to 2 hours for each initial SPL response.

We also estimate 3 registered outsourcing facilities will submit a report twice each year (June and December) that identifies all drugs repackaged at the facility in the previous 6 months. We also estimate that an average of 3 facilities will prepare and submit 3 SPL responses and assume that preparing and submitting this information electronically could also take up to 2 hours per response. If a product was not repackaged during a particular reporting period, outsourcing facilities do not need to send an SPL response for that product during that reporting period. Our figures reflect what we believe to be the average burden among respondents. We expect to receive no waiver requests from the electronic submission process for initial product reports and semiannual reports.

**Biologics Guidance**

We estimate 15 outsourcing facilities annually who mix, dilute, or repackage biological products will each design, test, and produce 5 different labels, for a total of 75 labels that include the information set forth in section III.B—''Mixing, Diluting, or Repackaging Licensed Biological Products'' of the guidance (including directions for use) as well as inclusion of storage instructions, handling instructions, or both. We assume that designing, testing, and producing each label will take 30 minutes (0.5 hours). We consider that the provision to include ''*https://www.fda.gov/medwatch*'' and ''1–800–FDA–1088'' is not a collection of information as defined in 5 CFR 1320.3(c)(2) and is therefore exempt from OMB review and approval under the PRA.

We estimate that annually a total of 5 outsourcing facilities that prepare prescription sets will each include on the labels, packages, and/or containers of approximately 300 prescription sets the information set forth in section III.C ''Licensed Allergenic Extracts for Subcutaneous Immunotherapy'' of the draft guidance (including directions for use), for a total of 1,500 disclosures. We assume the initial process of designing, testing, and producing labeling and attaching to each prescription set each label, package, and/or container will take approximately 30 minutes (0.5 hours), for a total of approximately 750 hours.

Finally, we estimate that annually five outsourcing facilities who repackage biological products and establish a BUD in accordance with Appendix A—''Assigning a BUD for Repackaged Biological Products Based On Stability Testing'' will maintain 150 records of the testing, as described in Appendix A of the guidance. We assume maintaining the records will take 5 minutes per record, for a total of 12.5 hours.

Our estimated burden for the information collection reflects program changes and adjustments. We are changing the scope of the information collection to include burden attendant to provisions found in the Agency guidance documents discussed in this notice and have adjusted our estimate to reflect a resulting increase of 955 hours and 1,873 responses annually.

Dated: August 5, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–17996 Filed 8–20–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–1464]**

### Bioequivalence Studies With Pharmacokinetic Endpoints for Drugs Submitted Under an Abbreviated New Drug Application; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a revised draft guidance for industry entitled ''Bioequivalence Studies With Pharmacokinetic Endpoints for Drugs Submitted Under an ANDA.'' This revised draft supersedes the draft guidance entitled ''Bioequivalence Studies With Pharmacokinetic Endpoints for Drug Products Submitted Under an ANDA,'' which was announced in the **Federal Register** on December 5, 2013. This revised draft guidance provides recommendations to applicants planning to include bioequivalence (BE) information in abbreviated new drug applications (ANDAs) and ANDA supplements. In addition, this guidance describes how to meet the BE requirements set forth in the Federal Food, Drug, and Cosmetic Act (FD&C Act) and FDA regulations.

**DATES:** Submit either electronic or written comments on the draft guidance by October 22, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–

2013–D–1464 for ''Bioequivalence Studies With Pharmacokinetic Endpoints for Drugs Submitted Under an ANDA.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** David Coppersmith, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1673, Silver Spring, MD 20993–0002, 301–796–9193.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled ''Bioequivalence Studies With Pharmacokinetic Endpoints for Drugs Submitted Under an ANDA.'' The revised draft guidance supersedes the draft guidance ''Bioequivalence Studies With Pharmacokinetic Endpoints for Drugs Submitted Under an ANDA,'' which was announced in the **Federal Register** on December 5, 2013 (78 FR 73199). FDA received nine comments on the draft guidance, which were considered before publication of this revised draft guidance.

This revised draft guidance provides recommendations to applicants planning to include BE information in ANDAs and ANDA supplements. In addition, this guidance describes how to meet the BE requirements set forth in the FD&C Act and FDA regulations. This guidance is generally applicable to dosage forms intended for oral administration and to non-orally administered drug products in which reliance on systemic exposure measures is suitable for documenting BE (*e.g.,* transdermal delivery systems and certain rectal and nasal drug products). This guidance will also be useful to applicants planning BE studies intended to be conducted during the post-approval period for changes to a drug product approved in an ANDA. FDA recommends that applicants consult this revised draft guidance, in conjunction with any relevant product-specific guidances for industry, when considering the appropriate BE study and/or other studies for a proposed drug product.

This revised draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The revised draft guidance, when finalized, will represent the current thinking of FDA on ''Bioequivalence Studies With Pharmacokinetic Endpoints for Drugs Submitted Under an ANDA.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 18, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–18073 Filed 8–20–21; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2021–P–0292]**

### Determination That ORTHO-CEPT (Desogestrel-Ethinyl Estradiol) 21- and 28-Day Oral Tablets, 0.15 Milligram/0.03 Milligram, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) has determined that ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 milligram (mg)/0.03 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:** Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 301–796–8363, *Stacy.Kane@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) Has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and, with certain exceptions, labeling as the listed drug, which is a version of the drug that was previously approved and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 mg/0.03 mg, is the subject of NDA 020301, held by Janssen Pharmaceuticals, Inc., and initially approved on December 14, 1992. ORTHO-CEPT is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception.

In a letter dated October 7, 2014, Janssen Pharmaceuticals, Inc., notified FDA that ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 mg/0.03 mg, were being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Arnall Golden Gregory LLP submitted a citizen petition dated March 11, 2021 (Docket No. FDA–2021–P–0292), under 21 CFR 10.30, requesting that the Agency determine whether ORTHO-CEPT (desogestrel-ethinyl estradiol) oral tablets, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 mg/0.03 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 mg/0.03 mg, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 mg/0.03 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list ORTHO-CEPT (desogestrel-ethinyl estradiol) 21- and 28-day oral tablets, 0.15 mg/0.03 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 17, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–17990 Filed 8–20–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

**[OMB No. 0906–XXXX]**

### Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: COVID–19 Provider Relief Programs Application and Attestation Portal, and Claims Reimbursement Submission Activities

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this ICR should be received no later than October 22, 2021.

**ADDRESSES:** Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* COVID–19 Provider Relief Programs Application and Attestation Portal, and Claims Reimbursement Submission Activities, OMB No. 0906–XXXX.

*Abstract:* HRSA administers the Provider Relief Programs (which includes the Provider Relief Fund (PRF), the American Rescue Plan Act Rural (ARPA–R) payments, the COVID–19 Coverage Assistance Fund (CAF), and the COVID–19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured (Uninsured Program or UIP). The

Provider Relief Programs disbursed, and are continuing to disburse, funds to eligible healthcare providers through two pathways: (1) Direct provider payments via the PRF and ARPA–R payments, and (2) claims reimbursement via the CAF and the UIP. This information collection includes four components: (1) The PRF and ARPA–R application portal; (2) the PRF and ARPA–R attestation portal; (3) the CAF application portal; and (4) the UIP application portal. To date, information for these programs has been collected under a Paperwork Reduction Act waiver executed pursuant to public health emergency authorities. HRSA is seeking comments regarding the CAF and the UIP for the first time. These information collections support administration of the Provider Relief Programs including the PRF, the Uninsured Program, and the CAF (funds for these three programs were appropriated under the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116–136), Paycheck Protection Program and Health Care Enhancement Act (Pub. L. 116–139), Coronavirus Response and Relief Supplemental Appropriations Act (Division M of Pub. L. 116–260)), and the ARPA–R payments (funds were appropriated under the American Rescue Plan Act of 2021, Pub. L. 117–2).

*Need and Proposed Use of the Information:* Providers who apply for Provider Relief Programs (*i.e.,* PRF, ARPA–R, CAF, and UIP payments) must apply for direct provider payments or claims reimbursement and attest to a set of Terms and Conditions to enable HRSA's appropriate disbursement and oversight of recipients' use of funds.

Information collected will allow for (1) assessing if recipients have met statutory and programmatic requirements; (2) conducting audits; (3) gathering data required to calculate, disburse, and report on PRF, ARPA–R, CAF, and UIP payments; and (4) program evaluation. HRSA staff may also use information collected to identify and report on trends in the effect of the COVID–19 pandemic on health care providers and uninsured or underinsured patients throughout the United States.

HHS makes publicly available the names of payment recipients and the aggregate amounts received, for all providers who attest to receipt of a payment and acceptance of the Terms and Conditions or who retain payments for more than 90 days and are deemed to have accepted the Terms and Conditions. By accepting funds, the recipient consents to HHS publicly disclosing the payments that recipient has received.

*Likely Respondents:* Health care providers that apply to receive, or have applied to receive, PRF, ARPA–R, CAF, or UIP payments, and attested to the associated Terms and Conditions.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

*Total Estimated Annualized Burden Hours:*

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Attestation Portal | 130,000 | 1 | 130,000 | 0.25 | 32,500 |
| Application Portal | 130,000 | 1 | 130,000 | 1.00 | 130,000 |
| CAF Application | 15,000 | 1 | 15,000 | 1.00 | 15,000 |
| UIP Application | 280,000 | 1 | 280,000 | 5.60 | 1,568,000 |
| Total | 555,000 | ..... | 555,000 | ..... | 1,745,500 |

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2021–18018 Filed 8–20–21; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Information Technology Advisory Committee 2021 Schedule of Meetings

**AGENCY:** Office of the National Coordinator for Health Information Technology (ONC), HHS.

**ACTION:** Notice of meetings.

**SUMMARY:** The Health Information Technology Advisory Committee (HITAC) was established in accordance with the 21st Century Cures Act and the Federal Advisory Committee Act. The HITAC, among other things, identifies priorities for standards adoption and makes recommendations to the National Coordinator for Health Information Technology (National Coordinator). The HITAC will hold public meetings throughout 2021. See list of public meetings below.

**FOR FURTHER INFORMATION CONTACT:** Michael Berry, Designated Federal Officer, at *Michael.Berry@hhs.gov,* (202) 701–0795.

**SUPPLEMENTARY INFORMATION:** Section 4003(e) of the 21st Century Cures Act (Pub. L. 114–255) establishes the Health Information Technology Advisory Committee (referred to as the ''HITAC''). The HITAC will be governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

#### Composition

The HITAC is comprised of at least 25 members, of which:

- No fewer than 2 members are advocates for patients or consumers of health information technology;
- 3 members are appointed by the HHS Secretary
  - 1 of whom shall be appointed to represent the Department of Health and Human Services and
  - 1 of whom shall be a public health official;
- 2 members are appointed by the majority leader of the Senate;
- 2 members are appointed by the minority leader of the Senate;
- 2 members are appointed by the Speaker of the House of Representatives;
- 2 members are appointed by the minority leader of the House of Representatives; and
- Other members are appointed by the Comptroller General of the United States.

Members will serve for one-, two-, or three-year terms. All members may be reappointed for a subsequent three-year term. Each member is limited to two three-year terms, not to exceed six years of service. Members serve without pay, but will be provided per-diem and travel costs for committee services, if warranted.

**Recommendations**

The HITAC recommendations to the National Coordinator are publicly available at *https://www.healthit.gov/topic/federal-advisory-committees/recommendations-national-coordinator-health-it.*

**Public Meetings**

The schedule of meetings to be held in 2021 is as follows:

- January 13, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- February 10, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- March 10, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- April 15, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- May 13, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- June 9, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- July 14, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- September 9, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- October 13, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)
- November 10, 2021 from approximately 9:30 a.m. to 2:30 p.m./Eastern Time (virtual meeting)

All meetings are open to the public. Additional meetings may be scheduled as needed. For web conference instructions and the most up-to-date information, please visit the HITAC calendar on the ONC website, *https://www.healthit.gov/topic/federal-advisory-committees/hitac-calendar.*

*Contact Person for Meetings:* Michael Berry, *Michael.Berry@hhs.gov.* A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Please email Michael Berry for the most current information about meetings.

*Agenda:* As outlined in the 21st Century Cures Act, the HITAC will develop and submit recommendations to the National Coordinator on the topics of interoperability, privacy and security, and patient access. In addition, the committee will also address any administrative matters and hear periodic reports from ONC. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its website prior to the meeting, the material will be made publicly available on ONC's website after the meeting, at *http://www.healthit.gov/hitac.*

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person prior to the meeting date. An oral public comment period will be scheduled at each meeting. Time allotted for each commenter will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting.

Persons attending in-person HITAC meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its HITAC meetings. Seating is limited at in-person meetings, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Michael Berry at least seven (7) days in advance of the meeting.

Notice of these meetings are given under the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App. 2).

Dated: July 27, 2021.

**Michael Berry,**

*Designated Federal Officer, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 2021–18019 Filed 8–20–21; 8:45 am]

**BILLING CODE 4150–45–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of SuRE Applications.

*Date:* November 18, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Sonia Ortiz-Miranda, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 402–9448, *sonia.ortiz-miranda@nih.gov.*

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of SuRE Applications.

*Date:* November 19, 2021.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Manas Chattopadhyay, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AN12N, 45 Center Drive, Bethesda, MD 20892, 301–827–5320, *manasc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18047 Filed 8–20–21; 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:* September 14, 2021.

*Time:* 11:00 a.m. to 3:00 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 3E70A, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Soheyla Saadi, 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 3E70A, Rockville, MD 20852, (240) 669–5178, *saadisoh@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: August 17, 2021.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–17988 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Fellowships in Digestive Diseases and Nutrition.

*Date:* October 14–15, 2021.

*Time:* 10:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Diabetes and Digestive and Kidney Diseases, NIH, 6707 Democracy Boulevard, Room 7011, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Jian Yang, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, NIH, Room 7011, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18040 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging, Initial Review Group; Career Development for Established Investigators and Conference Grants Study Section NIA–AGCD–4.

*Date:* October 14, 2021.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Greg Bissonette, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov.*

*Name of Committee:* National Institute on Aging, Initial Review Group; Career Development for Early Career Investigators Study Section NIA–AGCD–2.

*Date:* October 14–15, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Carmen Moten, Ph.D., MPH Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *cmoten@mail.nih.gov.*

*Name of Committee:* National Institute on Aging, Initial Review Group; Career Development Facilitating The Transition to Independence Study Section NIA–AGCD–1.

*Date:* October 14–15, 2021.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–496–9667, *nijaguna.prasad@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18051 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director; Notice of Charter Renewal

In accordance with Title 42 of the U.S. Code of Federal Regulations, Section 217a, notice is hereby given that the Charter for the Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health was renewed for an additional two-year period on August 15, 2021.

It is determined that the Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Stop Code 4875), Telephone (301) 496–2123, or *harriscl@mail.nih.gov.*

Dated: August 17, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–17989 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Digestive Diseases Research Core Centers (P30).

*Date:* November 18–19, 2021.

*Time:* 10:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7011, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Jian Yang, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, NIH Room 7011, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst. Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18039 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Integrative Neuroscience Initiative on Alcoholism (INIA) Consortia (RFA AA 21–011,012,013) Review Panel A.

*Date:* October 14, 2021.

*Time:* 9:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20817, (301) 443–0800, *bbuzas@mail.nih.gov.*

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Biomedical Research Study Section.

*Date:* October 19, 2021.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Philippe Marmillot, Ph.D., Scientific Review Officer, Extramural Project Review Branch, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2118, MSC 6902, Bethesda, MD 20892, 301–443–2861, *marmillotp@mail.nih.gov.*

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Study Section.

*Date:* October 25–26, 2021.

*Time:* 9:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2120, MSC 6902, Bethesda, MD 20892, 301–443–4032, *anna.ghambaryan@nih.gov.*

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special

Emphasis Panel; NIAAA Individual Fellowship (F30, F31, F32) Review Panel.

*Date:* October 27, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Luis Espinoza, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2109, Bethesda, MD 20892, (301) 443–8599, *espinozala@mail.nih.gov.*

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Neuroscience and Behavior Study Section.

*Date:* October 28, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20892, 301–443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: August 17, 2021.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–17930 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; The Autoantigens and Neoantigens Function in the Etiology and Pathophysiology of T1D.

*Date:* October 22, 2021.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Diabetes and Digestive and Kidney Diseases, NIH, 6707 Democracy Boulevard, Room 7007, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Lan Tian, Ph.D., Review Branch, Division of Extramural Activities, NIDDK, NIH, 6707 Democracy Boulevard, Room 7007, Bethesda, MD 20892, Phone: 301–496–7050, *tianl@niddk.nih.gov.*

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Development of Swallowable Smart Pills/Devices (phased R21/R33).

*Date:* November 2, 2021.

*Time:* 11:00 a.m. to 1:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Diabetes and Digestive and Kidney Diseases, NIH, 6707 Democracy Boulevard, Room 7007, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Lan Tian, Ph.D., Review Branch, Division of Extramural Activities, NIDDK, NIH, 6707 Democracy Boulevard, Room 7007, Bethesda, MD 20892, Phone: 301–496–7050, *tianl@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18041 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director; National Institutes of Health Notice of Meeting

Notice is hereby given of a change in the meeting of the HEAL (Helping to End Addiction Long-Term) Multi-Disciplinary Working Group, September 01, 2021, 10:30 a.m. to September 02, 2021, 03:45 p.m., National Institutes of Health, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on August 10, 2021, FR Doc 2021–17012, 86 FR 43669.

This notice is being amended to update the meeting times for the HEAL Multi-Disciplinary Working Group Meeting on September 1–2, 2021. Open: September 01, 2021, 11:00 a.m. to 12:00 p.m.; Closed: September 01, 2021, 12:00 p.m. to 4:30 p.m.; Closed: September 02, 2021, 11:00 a.m. to 4:30 p.m. The meeting is partially Closed to the public. The open portion of the meeting will be live webcast at: *https://videocast.nih.gov/.*

Dated: August 18, 2021.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18048 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; 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:* NIGMS Initial Review Group Training and Workforce Development Study Section—D NIGMS Review of SuRE Applications.

*Date:* October 7–8, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Tracy Koretsky, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3AN.12F, Bethesda, MD 20892, 301 594 2886, *tracy.koretsky@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology,

Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18049 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; 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:* NIGMS Initial Review Group Training and Workforce Development Study Section—A Review of Applications for NIGMS Basic Predoctoral and Medical Scientist Training Program Awards.

*Date:* November 16–17, 2021.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Isaah S. Vincent, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12L, Bethesda, MD 20892, 301–594–2948, *isaah.vincent@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18050 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed 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 Aging Special Emphasis Panel; High-Priority Behavioral and Social Research Networks.

*Date:* October 5, 2021.

*Time:* 12:30 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Carmen Moten, Ph.D., MPH Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *cmoten@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 18, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18038 Filed 8–20–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2021–0627]**

### National Merchant Mariner Medical Advisory Committee; September 2021 Teleconference

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.

**ACTION:** Notice of Federal advisory committee teleconference meeting.

**SUMMARY:** The National Merchant Mariner Medical Advisory Committee (Committee) will meet via teleconference to discuss matters relating to medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research. The meeting will be open to the public.

**DATES:**

*Meeting:* The National Merchant Mariner Medical Advisory Committee will meet by teleconference on Wednesday, September 8, 2021, from 11:00 a.m. until 3:00 p.m. (EDT). The teleconference may adjourn early if the Committee has completed its business.

*Comments and supporting documentation:* To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than September 1, 2021.

**ADDRESSES:** To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. EDT on September 1, 2021, to obtain the needed information. The number of teleconference lines are limited and will be available on a first-come, first-served basis.

*Instructions:* You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comment before the teleconference, please submit your comments no later than September 1, 2021. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER**

**INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number USCG–2021–0627. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to view the Privacy and Security Notice available on the homepage *of https://www.regulations.gov,* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

*Docket Search:* Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lalor, Alternate Designated Federal Officer of the National Merchant Mariner Medical Advisory Committee, telephone 202–372–1361 or email *michael.w.lalor@*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* 5 U.S.C. Appendix.

The National Merchant Mariner Medical Advisory Committee Meeting is authorized by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018.* The statutory authority is codified in 46 U.S.C. 15104. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. Appendix) in addition to the administrative provisions applicable to all National Maritime Transportation Advisory Committees in 46 U.S.C. 15109.

The Committee advises the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard on matters related to: (a) Medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

**Agenda**

The agenda for the September 8, 2021, teleconference is as follows:

(1) Introduction.

(2) Designated Federal Officer Remarks.

(3) Introduction, roll call of Committee members and determination of a quorum.

(4) Remarks from U.S. Coast Guard Leadership.

(5) Swearing in of Committee Member.

(6) Report on Status of Working Groups, Determination on Intercessional Meetings and Discussion of Working Group recommendations. The Committee will review the information presented on each issue, deliberate on any recommendations presented by the Working Groups, approve and formulate recommendations and close any completed tasks. Official action on these recommendations may be taken on:

(a) Task Statement 21–01, Recommendations on Mariner Mental Health;

(b) Task Statement 21–02, Communication Between External Stakeholders and the Mariner Credentialing Program;

(c) Task Statement 21–03, Medical Certifications for Military to Mariner;

(d) Task Statement 21–04, Recommendations on Appropriate Diets and Wellness for Mariners While Onboard Merchant Vessels; and

(e) Task Statement 21–05, Review of Proposed Revisions to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW–F) Medical Standards.

(7) New Business:

(a) Task Statement 21–06, Review of Medical Regulations and Policy to identify potential barriers to women in the U.S. maritime workforce.

(8) Updates on Merchant Mariner Medical Regulations and Policy.

(9) Updates from the National Maritime Center.

(10) Public comment period.

(11) Closing remarks and plans for next meeting.

(12) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-mariner-medical-advisory-committee-(nmedmac)* no later than September 1, 2021. Alternatively, you may contact Mr. Michael Lalor as noted in the **FOR FURTHER INFORMATION** section above.

During the September 8, 2021 teleconference, a public comment period will be held immediately after the introduction to the National Maritime Center, at approximately 2:00 p.m. EDT. Public comments will be limited to two minutes per speaker. Please note that the public comments period will end following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: August 18, 2021.

**Jeffrey G. Lantz,**

*Director of Commercial Regulations and Standards.*

[FR Doc. 2021–18036 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2021–0609]**

### Policy Letter: Issuance of Endorsements for Master of Self-Propelled Vessels of Less Than 100 GRT to Mariners Holding Endorsements as Mate of Self-Propelled Vessels of 200 GRT or More

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Coast Guard announces the availability of a policy letter regarding Issuance of Endorsements for Master of Self-Propelled Vessels of Less Than 100 GRT to Mariners Holding Endorsements as Mate of Self-Propelled Vessels of 200 GRT or More. This policy letter provides guidance to mariners for the issuance of national officer endorsements for master of self-propelled vessels of less than 100 GRT for mariners who hold national endorsements for mate of inspected self-propelled vessels of 200 GRT or more. The Coast Guard will use applicable regulations and this policy to evaluate whether mariners may be issued an endorsement for master of self-propelled vessels of less than 100 GRT.

**DATES:** The policies announced in the policy letter are effective as of August 18, 2021.

**ADDRESSES:** To view the policy letter mentioned in this notice, search the docket number USCG–2021–0609 using the Federal eRulemaking Portal at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For information about this document, contact the James Cavo, Mariner Credentialing Program Policy Division (CG–MMC–2), Coast Guard; telephone 202–372–1205; email *MMCPolicy@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** As specified in 46 CFR 15.901(a), an individual holding an MMC endorsed as mate or pilot of inspected self-propelled

vessels of over 200 gross registered tons (GRT) is authorized to serve as master on inspected vessels of less than 100 GRT within any restrictions on their merchant mariner credential (MMC). The Coast Guard will use the Policy Letter ''Issuance of Endorsements for Master of Self-Propelled Vessels of Less Than 100 GRT to Mariners Holding Endorsements as Mate of Self-Propelled Vessels of 200 GRT or More'' and 46 CFR 15.901 in issuing endorsements for mariners to serve as a master on vessels less than 100 GRT. The Coast Guard issued this policy letter to clarify the process for the issuance of national officer endorsements for master of self-propelled vessels of less than 100 GRT for mariners who hold national endorsements for mate of inspected self-propelled vessels of 200 GRT or more.

For mariners holding a MMC endorsement that authorizes service as mate on inspected self-propelled vessels of 200 GRT or more, the Coast Guard may include in the mariner's MMC a national endorsement as master of self-propelled vessels of less than 100 GRT. This will apply to the following national endorsements:

(1) Chief Mate of Self-Propelled Vessels of Unlimited Tonnage;

(2) Second Mate of Self-Propelled Vessels of Unlimited Tonnage;

(3) Third Mate of Self-Propelled Vessels of Unlimited Tonnage;

(4) Mate of Self-Propelled Vessels of Less Than 1,600 GRT;

(5) Mate of Self-Propelled Vessels of Less Than 500 GRT;

(6) Chief Mate (OSV);

(7) Mate (OSV); and

(8) Mate (Pilot) of Towing Vessels.

Mariners holding one of the endorsements above authorizing service on either near-coastal waters or oceans will be issued an endorsement as Master of Near Coastal Self-Propelled Vessels of Less Than 100 GRT. Mariners holding one of the endorsements above for inland waters or for Great Lakes and inland waters will be issued a master less than 100 GRT endorsement with the same route as their mate endorsement. Mariners holding endorsements as Chief Mate (OSV) and Mate (OSV) will be issued endorsements as master of less than 100 GRT that are not restricted to offshore supply vessels. Mariners holding endorsements as Mate (Pilot) of Towing Vessels will be issued endorsements as master of less than 100 GRT that are not restricted to towing vessels. All other restrictions on the mariner's mate endorsement will apply to the endorsement for master for less than 100 GRT.

Mariners seeking to add the master less than 100 GRT endorsement to their MMCs, must specifically apply for it in order for the Coast Guard to add the endorsement to their credential. However, mariners holding one of the endorsements listed in above are not required to have the endorsement as master in their MMC in order to serve as master on an inspected vessel of less than 100 GRT. As specified in 46 CFR 15.901(a), any mariner holding an endorsement authorizing service as mate on an inspected vessel of 200 GRT or more may serve as master on a vessel of less than 100 GRT on the same route as their equivalent mate endorsement.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: August 18, 2021.

**J.G. Lantz,**

*U.S. Coast Guard, Director of Commercial Regulations and Standards.*

[FR Doc. 2021–18090 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Uruguay Beef Imports Approved for the Electronic Certification System (eCERT)

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

**ACTION:** General notice.

**SUMMARY:** This document announces that the export certification requirement for certain imports of beef from the Oriental Republic of Uruguay (Uruguay) subject to a tariff-rate quota will be accomplished through the Electronic Certification System (eCERT). All imports of beef from Uruguay that are subject to the tariff-rate quota must have a valid export certificate with a corresponding eCERT transmission at the time of entry, or withdrawal from warehouse, for consumption. The United States Government (USG) has approved the request from Uruguay to transition, from the way the USG currently receives export certificates from Uruguay, to eCERT as the method of transmission. The transition to eCERT will not change the tariff-rate quota filing process or requirements. Importers will continue to provide the export certificate numbers from Uruguay in the same manner as when currently filing entry summaries with U.S. Customs and Border Protection. The format of the export certificate numbers will remain the same for the corresponding eCERT transmissions.

**DATES:** The use of the eCERT process for certain Uruguayan beef importations subject to a tariff-rate quota will be effective for beef entered, or withdrawn from a warehouse, for consumption on or after August 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Julia Peterson, Chief, Quota and Agriculture Branch, Trade Policy and Programs, Office of Trade, (202) 384–8905, or *HQQUOTA@cbp.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

There is an existing tariff-rate quota on certain beef from the Oriental Republic of Uruguay (Uruguay) pursuant to Additional U.S. Note 3 of Chapter 2 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff-rate quota for beef from Uruguay was established by section 6 of the Presidential Proclamation No. 6763 (December 23, 1994), as a result of the Uruguay Round Agreements, approved by Congress in section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511(a), Pub. L. 103–465, 108 Stat. 4814). Tariff-rate quotas permit a specified quantity of merchandise to be entered or withdrawn for consumption at a reduced duty rate during a specified period. Furthermore, section 2012.3 of title 15 of the Code of Federal Regulations (CFR) states that beef may only be entered as a product of an eligible country for a tariff-rate quota if the importer makes a declaration to U.S. Customs and Border Protection (CBP) that a valid export certificate is in effect with respect to the beef. In addition, the CBP regulations, at 19 CFR 132.15, set forth provisions relating to the requirement that an importer must possess a valid export certificate at the time of entry, or withdrawal from warehouse, for consumption, to claim the in-quota tariff rate of duty on entries of beef subject to the tariff-rate quota.

The Electronic Certification System (eCERT) is a system developed by CBP that uses electronic data transmissions of information normally associated with a required export document, such as a license or certificate, to facilitate the administration of quotas and ensure that the proper restraint levels are charged without being exceeded. Uruguay currently submits export certificates to CBP via email, and in the administration of the quota, CBP validates these certificates with the certificate numbers provided by importers on their entry summaries. Uruguay requested to participate in the eCERT process to comply with the United States' tariff-rate quota for beef exported from Uruguay for importation

into the United States. CBP has coordinated with Uruguay to implement the eCERT process, and now Uruguay is ready to participate in this process by transmitting its export certificates to CBP via eCERT.

Foreign countries participating in eCERT transmit information via a global network service provider, which allows connectivity to CBP's automated electronic system for commercial trade processing, the Automated Commercial Environment (ACE). Specific data elements are transmitted to CBP by the importer of record (or an authorized customs broker) when filing an entry summary with CBP, and those data elements must match eCERT data from the foreign country before an importer may claim any applicable in-quota tariff rate of duty. An importer may claim an in-quota tariff rate when merchandise is entered, or withdrawn from warehouse, for consumption, only if the information transmitted by the importer matches the information transmitted by the foreign government. If there is no transmission by the foreign government upon entry, an importer must claim the higher over-quota tariff rate.[1] An importer may subsequently claim the in-quota tariff rate under certain limited conditions.[2]

This document announces that Uruguay will be implementing the eCERT process for transmitting export certificates for beef entries subject to the tariff-rate quota. Imported merchandise that is entered, or withdrawn from warehouse, for consumption on or after August 30, 2021, must match the eCERT transmission of an export certificate from Uruguay in order for an importer to claim the in-tariff quota rate. The transition to eCERT will not change the tariff-rate quota filing process or requirements. Importers will continue to provide the export certificate numbers from Uruguay in the same manner as when currently filing entry summaries with CBP. The format of the export certificate numbers will not change as a result of the transition to eCERT. CBP will reject entry summaries that claim an in-quota tariff rate when filed without a valid export certificate in eCERT.

Dated: August 16, 2021.

**AnnMarie R. Highsmith,**

*Executive Assistant Commissioner, Office of Trade.*

[FR Doc. 2021–18009 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

[1] If there is no associated foreign government eCERT transmission available upon entry of the merchandise, an importer may enter the merchandise for consumption subject to the over-quota tariff rate or opt not to enter the merchandise for consumption at that time (*e.g.,* transfer the merchandise to a Customs bonded warehouse or foreign trade zone or export or destroy the merchandise).

[2] If an importer enters the merchandise for consumption subject to the over-quota tariff rate and the associated foreign government eCERT transmission becomes available afterwards, an importer may claim the in-quota rate of duty by filing a post summary correction (before liquidation) or a protest under 19 CFR part 174 (after liquidation). In either event, the in-quota rate of duty is allowable only if there are still quota amounts available within the original quota period.

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2021–0021]**

### Request for Information on the National Flood Insurance Program's Community Rating System

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security (DHS).

**ACTION:** Notice and request for information.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is issuing this Request for Information (RFI) to receive input from the public on transforming the Community Rating System (CRS) under the National Flood Insurance Program (NFIP) to better align with the current understanding of flood risk and flood risk approaches and to incentivize communities to not only manage but also lower their flood risk through floodplain management initiatives. The NFIP's CRS program is a voluntary incentive program that recognizes and encourages community floodplain management practices that exceed the minimum requirements of the NFIP for floodplain management. As FEMA undertakes a series of initiatives that will transform the NFIP, the agency is evaluating the CRS program and its potential to support FEMA, State, local, Tribal, and Territorial community goals and needs.

**DATES:** Written comments are requested on or before September 22, 2021. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may submit comments, identified by Docket ID: FEMA–2021–0021, through the *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. Please note that this RFI period is not rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

**FOR FURTHER INFORMATION CONTACT:** Rachel Sears, Supervisory Emergency Management Specialist, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, *FEMA-CRS-Next@fema.dhs.gov,* 202–212–3800.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

Interested persons are invited to comment on this notice by submitting written data, views, or arguments using the method identified in the **ADDRESSES** section.

*Instructions:* All submissions must include the agency name and Docket ID for this notice. All comments received will be posted without change to *http://www.regulations.gov.* Commenters are encouraged to identify the number of the specific question or questions to which they are responding.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and search for the Docket ID.

## II. Background

Floods are the most common and most destructive natural disaster in the United States.[1] Every year, flooding causes hundreds of millions of dollars in damage to homes and businesses around the United States.[2] Anywhere it can rain, it can flood. With 99% of counties in the United States having experienced a flood [3] and when just one inch of water can cause $25,000 in damage in a home,[4] communities across the country must make difficult decisions about protecting lives and property from flooding.

Standard homeowners and commercial property insurance policies do not cover flood losses. To meet the need for this vital coverage, FEMA administers the National Flood Insurance Program (NFIP), which offers reasonably priced flood insurance to all properties in communities that comply with minimum standards for floodplain

[1] *See* Ready Campaign, Floods (updated Apr. 9, 2021) at *http://www.ready.gov/floods* (last accessed July 15, 2021). *See also* National Weather Service, Flood Related Hazards at *http://www.weather.gov/safety/flood-hazards* (''Approximately seventy-five percent of all Presidential disaster declarations are associated with flooding.'') (last accessed July 15, 2021).

[2] *See* Billion-Dollar Weather and Climate Disasters: Summary Stats, at *http://www.ncdc.noaa.gov/billions/summary-stats* (last accessed July 7, 2021).

[3] *See* Historical Flood Risk and Costs at *http://www.fema.gov/data-visualization/historical-flood-risk-and-costs* (last accessed, July 9, 2021)

[4] *See* Why Buy Flood Insurance at *http://www.floodsmart.gov/flood-insurance/why* (last accessed July 1, 2021).

management. To be covered by an NFIP flood insurance policy, a property must be in a community that participates in the NFIP. To qualify for the NFIP, a community adopts and enforces a floodplain management ordinance to regulate development in flood hazard areas.[5] The objective of the ordinance is to minimize the potential for flood damage to future development. Today, over 22,500 communities in the United States participate in the NFIP.[6]

In 1990, FEMA implemented the Community Rating System (CRS) as a voluntary program for recognizing and encouraging community floodplain management activities exceeding the minimum NFIP standards and the CRS program was fully authorized by the National Flood Insurance Reform Act of 1994.[7] Any community[8] in full compliance with the minimum NFIP floodplain management requirements may apply to join the CRS program. Through the CRS program, communities undertaking floodplain management activities that exceed the minimum floodplain management requirements of the NFIP earn CRS credits (often referred to as ''points'') that result in flood insurance premiums discounts for NFIP policyholders who reside in that community. As of April 2021, over 1,500 communities participate in the CRS program nationwide. This represents about seven percent of eligible NFIP communities that could participate in the CRS program. However, these communities have a large number of NFIP flood insurance policies—nearly 3.6 million—so more than 70 percent of all NFIP policies are written in communities participating in the CRS program.[9]

The CRS program credits community efforts that exceed the minimum standards by reducing flood insurance premiums for the community's policyholders. The CRS program is similar to, but separate from, the private insurance industry's programs that grade communities on the effectiveness of their fire suppression and building code enforcement efforts. CRS program discounts on flood insurance premiums range from 5 percent up to 45 percent based on the level of CRS program credits awarded to communities. The discounts provide an incentive for communities to implement new flood protection activities that help save lives and property when a flood occurs and correlate to FEMA's expected savings for these local floodplain activities.

To participate in the CRS program, local floodplain management actions must be described, measured, and evaluated by the CRS program. The CRS program assigns credits for defined activities. Most activities are optional; however, some activities are required to achieve higher Classes. A higher-Class community achieves higher levels of discount; a Class 1 community achieves the highest discount of 45 percent. The basic documents detailing the program are the NFIP Community Rating System Coordinator's Manual (known as the ''CRS Coordinator's Manual'') and the 2021 Addendum to the NFIP Community Rating System Coordinator's Manual (known as the ''2021 Addendum'').[10] Taken together, these documents set forth the procedures, creditable activities, and the credit assigned to each activity, and give examples of activities and how their credit is calculated.

The discounts on premium rates for NFIP flood insurance coverage are based on flood and erosion risk reduction measures implemented by a CRS community.[11] The CRS program provides credit to participating communities under 19 public information and floodplain management activities as described in the CRS Coordinator's Manual. To receive credit, community officials prepare documentation that verifies the efforts made under the 19 activities. The CRS program activities include but are not limited to: (1) Public information to advise people about flood hazards, flood insurance, and ways to reduce flood damage; (2) mapping and regulations to limit floodplain development or provide increased protection to new and existing development; (3) flood damage reduction; and (4) flood preparedness to provide flood warning, levee safety, and dam safety projects.

Based on the total number of credits a community earns, the CRS program assigns the community to one of ten different Classes. The community will then receive flood insurance discounts based on the community's Class. For example, a community earning 4,500 credits or more qualifies for Class 1, and property owners in the Special Flood Hazard Area (SFHA) receive a 45 percent discount on their NFIP flood insurance premiums. Similarly, a community with as few as 500 credits will be in Class 9 and property owners in the SFHA receive a 5 percent discount. Communities may receive additional credit for regulating development outside the SFHA to the same standards as inside the SFHA. Credits are also available for assessing future flood conditions, including the impacts of future development, urbanization, and climate change impacts including sea-level rise. Additionally, communities can qualify for ''State-based credit'' based on the activities or regulations a State or regional agency implements within communities. A community that does not participate in the CRS program, or does not obtain the minimum number of credit points, is a Class 10 community and receives no discount on NFIP flood insurance premiums.

FEMA is seeking input on ways the agency can improve the CRS program: (1) To better align the CRS program with the improved understanding of flood risk and flood risk approaches that have developed since the program's inception; (2) to better incentivize communities and policyholders to become more resilient and to not only manage, but to lower their vulnerability to flood risk; and (3) to support the sound financial framework of the NFIP.

While the CRS program today has evolved, the overall approach and framework of the program has been the same since the start of the program. As FEMA undertakes many initiatives that will transform the NFIP, the agency is also evaluating the CRS program and its potential to support FEMA, State government, Tribal government, Territorial and community goals and needs. While the agency has made incremental changes since the CRS program's implementation, the agency is seeking input to improve the program further through additional programmatic changes. With the continuous learning around flood, flood risk management, and flood risk reduction techniques, FEMA now has more information about and

[5] 44 CFR 59.2(b).

[6] *See* The Watermark—National Flood Insurance Program Financial Statements found at: *http://www.fema.gov/flood-insurance/work-with-nfip/watermark-financial-statements* (last accessed July 27, 2021).

[7] Public Law 103–325, 108 Stat. 2255 (1994).

[8] ''Community'' means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction. 44 CFR 59.1.

[9] FEMA, Community Rating System Fact Sheet, June 2021, at *http://www.fema.gov/fact-sheet/community-rating-system* (last accessed July 12, 2021).

[10] Includes both the FEMA, NFIP Community Rating System Coordinator's Manual, at *http://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf,* and the 2021 Addendum to the NFIP Community Rating System Coordinator's Manual, at *http://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinator-manual_addendum-2021.pdf.* (last accessed July 1, 2021).

[11] *See* 2017 CRS Coordinator's Manual, Appendix D found at *http://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf.*

understanding of multi-frequency analysis, pluvial flooding, climate change, and the extent of flood risk outside of the SFHA. FEMA seeks to make larger improvements within our programs based on these developments and is now taking a holistic look at the CRS program to determine how the program can best meet FEMA and stakeholder needs.

As FEMA reviews the CRS program, several foundational assumptions underpin this programmatic review and improvement effort (called ''CRS Next''), including that the CRS program will continue to provide whole-community public benefits through a rewards-based program; the CRS program will continue to increase both the visibility of comprehensive flood risk and recognition of actions taken by a community; the CRS program will support and contribute to the financial soundness of the NFIP; the CRS program will be simpler for communities to join and participate in; the CRS program will be simpler for FEMA to explain to communities and also for communities to explain to their constituents; the CRS program will clarify that it does not address structure-based risk reduction activities; and FEMA will avoid duplication between the approaches of the CRS program and other NFIP Transformation efforts.

FEMA is also further reviewing the CRS program in light of recent Executive orders focused on equity, climate change, and environmental justice. FEMA recently sought input through another Request for Information pursuant to the processes required by Executive Orders 13985, 13990, and 14008 [12] that require agencies to assess existing programs and policies to determine if: (1) Agency programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups; (2) additional agency actions are required to bolster resilience to climate change; and (3) agency programs, policies, and activities address the disproportionately high and adverse climate-related impacts on disadvantaged communities.[13] The input received from that Request for Information will also be used to assist FEMA's initiative to improve and update the CRS program. Additional comments on equity related to CRS may also be provided through this RFI.

FEMA continually evaluates its programs, regulations, and policies, to identify opportunities to modify, streamline, expand, or repeal. FEMA does so through legally mandated review requirements (*e.g.,* Unified Agenda reviews and reviews under section 610 of the Regulatory Flexibility Act) and through other informal and long-established mechanisms (*e.g.,* use of Advisory Councils, feedback from FEMA field personnel, input from internal working groups, and outreach to regulated entities and the public). This **Federal Register** notice supplements these existing extensive FEMA regulatory and program review efforts.

## II. Request for Input

### *A. Importance of Public Feedback*

FEMA is committed to obtaining public input to drive and focus FEMA's review of the CRS program. Because Federal regulations and policies have broad impacts on society in general, members of the public are likely to have useful information, data, and perspectives on the benefits and burdens of FEMA's existing programs, regulations, information collections, and policies. Accordingly, FEMA is seeking specific public feedback to facilitate the CRS program review and improvement efforts in the context of equity for all, including those in underserved communities. With the increasing risk of flooding and flood damage, in part because of climate change, it is essential that FEMA reevaluate programs to reduce unnecessary barriers to participation and effectiveness, to serve all communities, to increase equity, and to promote preparedness.

### *B. Maximizing the Value of Public Feedback*

This notice contains a list of questions, the answers to which will assist FEMA in identifying those aspects of the CRS program that may benefit from modification, streamlining, or expansion. FEMA encourages public comment on these questions and seeks any other data commenters believe are relevant to FEMA's efforts. The type of feedback that is most useful to the agency will identify specific CRS program components that could benefit from reform; refer to specific barriers to participation; align the CRS program with the improved understanding of flood risk and flood risk reduction approaches gained since the initiation of the program; better incentivize communities and policyholders to become more resilient and lower their vulnerability to flood risk; offer actionable data; and specify viable alternatives to existing approaches that meet statutory obligations.

For example, feedback that contains specific information explaining a proposed change to the CRS program, how such a change could be implemented, and why said change would be beneficial (*i.e.,* the outcomes a proposed change would aim to effect) is more useful to FEMA than generic feedback that omits these components. FEMA is looking for new information and new data to support any proposed changes.

Commenters should consider these principles as they answer and respond to the questions in this notice.

- Commenters should identify, with specificity, the CRS program policy or process at issue.
- Commenters should explain, with as much detail as possible, why an aspect of the CRS program should be modified, streamlined, expanded, or repealed, and provide specific suggestions of ways the agency can better achieve its objectives.
- Commenters should provide specific data that document the costs, burdens, and benefits of existing requirements to the extent they are available. Commenters might also address how FEMA can best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of the CRS program and whether there are existing sources of data that FEMA can use to evaluate the effects of the CRS program over time.
- Commenters should identify with specificity administrative burdens, CRS program requirements, information collection burdens, waiting time, or unnecessary complexity that may impose unjustified barriers in general, or that may have adverse effects on equity for all, including those in underserved communities. This Request for Information and change effort aligns with broader FEMA efforts to solicit public comments on FEMA Programs, Regulations, and Policies. FEMA is seeking additional information specific to the CRS program and the CRS Next change effort on the topics of equity for all, including those in underserved communities. Commenters seeking to provide input on these areas should respond to the questions below in this Request for Information.
- Commenters should identify with specificity small or large reforms that might be justified in light of the risks posed by climate change, including but not limited to sea-level rise, intense

[12] See ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' 86 FR 7009 (Jan. 25, 2021); ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,'' 86 FR 7037 (Jan. 25, 2021); and ''Tackling the Climate Crisis at Home and Abroad,'' 86 FR 7619 (Feb. 1, 2021).

[13] Request for Information on FEMA Programs, Regulations, and Policies, 86 FR 21325 (April 22, 2021).

rainfall, changing weather patterns, riverine and coastal erosion, and shifts in future development.

• Particularly where comments relate to the CRS program's costs or benefits, comments will be most useful if there are data and experience under the program available to ascertain the program's actual impact.

*C. List of Questions for Commenters*

The below non-exhaustive list of questions is meant to assist members of the public in the formulation of comments and is not intended to restrict the issues that commenters may address:

(1) What are the strengths of the current CRS program? What components of the program are currently working well and why?

(2) What are the challenges with the current CRS program that need to be addressed and why? How can the CRS program be modified, expanded, or streamlined to better address or resolve these challenges?

(3) While the CRS program is technically available to all compliant NFIP communities, is access to the CRS program equitable for all communities? If not, what changes to the CRS program could make it more equitable for all communities? How could the CRS program provide better outreach to disadvantaged communities to encourage participation? How could the CRS program provide better outreach to households in disadvantaged communities to encourage participation in the NFIP?

(4) How could the CRS program better promote and/or incentivize improved reduction of future conditions and risks such as climate change, sea-level rise, urban flooding, and future development?

(5) How could the CRS program better address the mitigation of repetitive loss/severe repetitive loss [14] properties and how could FEMA further leverage the CRS program to achieve mitigation of repetitive loss/severe repetitive loss properties?

(6) How can the CRS program be modified, expanded, or streamlined to best incentivize participation by communities and flood insurance policyholders to become more resilient and lower their vulnerability to flood risk?

(7) How can the CRS program better incentivize floodplain management, risk management, and/or risk reduction efforts for communities through CRS discounts, grants, trainings, technical assistance or other means? Which efforts are most critical for the CRS program to support?

(8) What existing sources of data can FEMA leverage to better assist communities to assess, communicate, and drive the reduction of current and future flood risk? Can FEMA leverage new technologies to modify or streamline the CRS program? If so, what are they and how can FEMA use new technologies to achieve the statutory objectives of the program?

(9) The CRS program provides credits for flood risk reduction activities. Are there flood risk reduction activities that are not currently given credit within the CRS program that should be? If so, what are they and why? Are there flood risk reduction activities that are currently given excessive credit within the CRS program than they should be given? If so, what are they and why? Should the CRS program provide a list of optional risk reduction activities for communities to choose from or a list of required risk reduction activities, and why?

(10) What successful approaches have been taken by State, local, Tribal, and Territorial governments that the CRS program could leverage to better support community participation in the CRS program? In what ways could the CRS program better support States, Tribes, Territories and Regions, and flood control and water management districts to improve community participation in the program? What innovative changes could the CRS program make to be simpler for communities to join and maintain participation?

(11) How could the CRS program provide better outreach to disadvantaged communities to encourage participation? How could the CRS program provide better outreach to households in disadvantaged communities to encourage participation in the NFIP?

(11) In what ways could the CRS program facilitate collaboration across jurisdictional boundaries to support a community's ability to reduce flood risk? How could the CRS program be modified, expanded, or streamlined to allow for multi-jurisdictional collaboration efforts to receive credit under the CRS program?

(12) What opportunities exist for the CRS program to better integrate with other entities and/or programs? For example, in what specific ways could the CRS program better work and integrate with State, local, Tribal, and Territorial programs, including but not limited to, floodplain management, emergency services, land use planning and building code administration capital improvement, transportation, redevelopment, pre- and post-disaster recovery, climate adaptation, hazard mitigation planning, watershed management, and/or wetlands, riparian, or environmental management programs? In what specific ways could the CRS program better work and integrate with Federal disaster assistance programs or Federal mitigation programs?

FEMA notes that this notice is issued solely for information and program-planning purposes. Responses to this notice do not bind FEMA to any further actions related to the response.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–18167 Filed 8–20–21; 8:45 am]

**BILLING CODE 9111–47–P**

[14] ''Repetitive loss properties'' are those properties for which two or more claims of more than $1,000 have been paid by the NFIP within any 10-year period since 1978. ''Severe repetitive loss properties'' are those as defined in the Flood Insurance Reform Act of 2004 that are one-four family properties that have had four or more claims of more than $5,000 or two to three claims that cumulatively exceed the building's value. CRS considers non-residential buildings that also meet these criteria to be severe repetitive loss properties. *See* National Flood Insurance Program Community Rating System Coordinator's Manual 2017 and National Flood Insurance Program Community Rating System Addendum to the 2017 CRS Coordinator's Manual at *https://www.fema.gov/floodplain-management/community-rating-system* (last accessed May 20, 2021).

## DEPARTMENT OF HOMELAND SECURITY

**[Docket Number DHS–2021–0009]**

## Agency Information Collection Activities: Vulnerability Discovery Program, 1601–0028

**AGENCY:** Department of Homeland Security, (DHS).

**ACTION:** 30-Day notice and request for comments; extension without change of a currently approved collection, 1601–0028.

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on Friday, March 19, 2021 for a 60-day public comment period. There were three public comments received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

**DATES:** Comments are encouraged and will be accepted until September 22, 2021. This process is conducted in accordance with 5 CFR 1320.1

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**SUPPLEMENTARY INFORMATION:** Security vulnerabilities, defined in section 102(17) of the Cybersecurity Information Sharing Act of 2015, are any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. Security vulnerability mitigation is a process starting with discovery of the vulnerability leading to applying some solution to resolve the vulnerability. There is constantly a search for security vulnerabilities within information systems, from individuals or nation states wishing to bypass security controls to gain invaluable information, to researchers seeking knowledge in the field of cyber security. Bypassing such security controls in the DHS and other Federal Agencies information systems can cause catastrophic damage including but not limited to loss in Personally Identifiable Information (PII), sensitive information gathering, and data manipulation.

Pursuant to section 101 of the Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure Technology Act, (commonly known as the SECURE Technologies Act) individuals, organizations, and/or companies may submit any discovered security vulnerabilities found associated with the information system of any Federal agency. This collection would be used by these individuals, organizations, and/or companies who choose to submit a discovered vulnerability found associated with the information system of any Federal agency.

Specifically, DHS and Federal cybersecurity agencies are working to address the recently discovered SolarWinds hack on Federal agencies and organizations around the world. While DHS had previously obtained approval to collect this information on its own behalf, recent cyber attacks exploiting vulnerabilities have exemplified the need to have this capability government-wide. In 2020, a major cyberattack, nicknamed the SolarWinds cyberattack, by a group backed by a foreign government penetrated thousands of organizations globally including multiple parts of the United States federal government, leading to a series of data breaches. The cyberattack and data breach were reported to be among the worst cyber-espionage incidents ever suffered by the U.S., due to the sensitivity and high profile of the targets and the long duration (eight to nine months) in which the hackers had access. Affected organizations worldwide included NATO, the U.K. government, the European Parliament, Microsoft and others.

Public Law 116–283, Sec. 1705 (which amended 44 U.S.C. 3553) permits extensive sharing of information regarding cybersecurity and the protection of information and information systems from cybersecurity risks between Federal Agencies covered by the Federal Information Security Modernization Act and the Department of Homeland Security. This unique authority makes DHS well positioned to host the approval of this information collection on behalf of other Federal agencies.

DHS is requesting pursuant to 44 US Code 3509, that the information collection be designated for any Federal agencies ability to utilize the standardized DHS online form to collect their own agency's vulnerability information and post the information on their own agency websites.

The form will include the following essential information:

- Vulnerable host(s)
- Necessary information for reproducing the security vulnerability
- Remediation or suggestions for remediation of the vulnerability
- Potential impact on host, if not remediated

This form will allow Federal agencies to complete the following actions; (1) allow the individuals, organizations, and/or companies who discover vulnerabilities in the information systems to report their findings to the agency, and (2) provide the agencies initial insight into any newly discovered vulnerabilities, as well as zero-day vulnerabilities in order to mitigate the security issues prior to malicious actors acting upon the vulnerability for malicious intent.

The form will also benefit researchers and will provide a safe and lawful method to practice and discover new cyber methods to discover the vulnerabilities. It will provide the same benefit to Federal agencies and will promote the enhancement of Federal information system security policies.

Respondents will be able to submit their information directly to the agency in which they would like to report a vulnerability. Federal Agencies will provide the form electronically via their agencies website.

The information collected does not have an impact on small business or other small entities.

The collection of this information related to the discovery of security vulnerabilities by individuals, organizations, and/or companies is needed to fulfill the congressional mandate in Section 101 of the SECURE Technologies Act related to creating Vulnerability Disclosure Policies. In addition, without the ability to collect information on newly discovered security vulnerabilities associated with Federal agency information systems, Federal agencies will rely solely on the internal security personnel and/or the discovery through a post occurrence breach of security controls.

There are no assurances of confidentiality provide. Any PII that is collected will be for the sole purpose of feedback and dialogue. Federal Agencies will ensure the collection of information is covered by a Systems of Record Notice and will display a Privacy Notice to the respondents.

There are no changes to the information being collected.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

**Analysis**

*Agency:* Department of Homeland Security, (DHS).

*Title:* Vulnerability Discovery Program.

*OMB Number:* 1601–0028.

*Frequency:* On Occasion.

*Affected Public:* State, Local and Tribal Government.

*Number of Respondents:* 3,000.

*Estimated Time per Respondent:* 1 Hour.

*Total Burden Hours:* 3,000.

**Robert Dorr,**

*Executive Director, Business Management Directorate.*

[FR Doc. 2021–18059 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket Number DHS–2021–0027]**

## Agency Information Collection Activities: DHS Civil Rights and Civil Liberties Complaint and Privacy Waiver Form

**AGENCY:** Department of Homeland Security (DHS).

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted until September 22, 2021. This process is conducted in accordance with 5 CFR 1320.1.

**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 specific information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**SUPPLEMENTARY INFORMATION:** The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) reviews and investigates civil rights and civil liberties complaints filed by the public regarding U.S. Department of Homeland Security (DHS) policies and activities. Under 6 U.S.C. 345 and 42 U.S.C. 2000ee–1, CRCL reviews and assesses allegations involving a range of alleged civil rights and civil liberties abuses, such as:

- Discrimination based on race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, or disability;
- Violation of rights while in immigration detention or as subject of immigration enforcement;
- Discrimination or inappropriate questioning related to entry into the United States;
- Violation of due process rights, such as the right to timely notice of charges or access to lawyer;
- Violation of confidentiality provisions of the Violence Against Women Act;
- Physical abuse or any other type of abuse;
- Denial of meaningful access to DHS or DHS-supported programs, activities, or services due to limited English proficiency and
- Any other civil rights, civil liberties, or human rights violation related to a Department program or activity, including allegations of discrimination by an organization or program that receives financial assistance from DHS.

CRCL also reviews and investigates human rights complaints under Executive Order 13107, disability accommodation complaints under Section 504 of the Rehabilitation Act of 1973, and inaccessible Information and Communication Technology (ICT) complaints under Section 508 of the Rehabilitation Act, as amended by the Workforce Investment Act of 1998 (Pub. L. 105–220), codified at 29 U.S.C. 794. The information collected on this form will allow CRCL to review and investigate civil rights and civil liberties complaints filed by the public regarding DHS programs and activities.

CRCL submits copies all external allegations of civil rights and civil liberties violations within its jurisdiction that it receives to the DHS Office of Inspector General (OIG) for review because OIG has the right of first refusal to investigate any allegations. If the OIG declines to investigate the allegations, CRCL may investigate. CRCL coordinates with DHS Components and the OIG regarding matters that CRCL opens as complaint investigations as well as some it decides not to investigate. In general, CRCL shares the incoming information with the Components involved and coordinates with the Components throughout a CRCL investigation. As a result of its complaint investigations, CRCL issues recommendations to DHS Components to address issues of concern and to enhance the agency's civil rights and civil liberties protections. CRCL has also engaged with Components on the implementation of such recommendations.

In addition, the information provided is entered into a CRCL complaint management system (CMS) and may be used by CRCL to track allegations and identify trends and systemic issues that are within CRCL's jurisdiction regardless of whether CRCL investigates an individual allegation. CRCL has used information from these database records to notify DHS Components of issue areas and locations that may warrant closer attention.

Information can be submitted to CRCL via U.S. mail, email, fax, or telephone and may be initiated by members of the public, federal agencies, or agency personnel, non-governmental organizations, media reports or other sources. The use of the complaint form is optional.

The form is in a fillable accessible PDF format and can be submitted by U.S. mail, email, or fax to CRCL. The use of this form provides an efficient means for collecting and processing required data and information useful to conduct an investigation. To minimize administrative burden on complainants and the Department, submission of information electronically, via email, is the fastest way to reach CRCL. Information provided by complainants is maintained in electronic format, so provided the information electronically will further minimize administrative burden.

If a complainant is unable to or does not wish to submit their information electronically, information can be submitted via U.S. mail, fax, or phone call. It is noted on CRCL's website that postal mail can take up to 20 business days. CRCL is about the launch a new CMS that would support other means of submitting a complaint (*e.g.,* web portal) and these are enhancements that will be considered in the future.

This information collection does not have an impact on small businesses or other small entities.

If the information collection is not conducted or is conducted less frequently, CRCL may not be able to effectively fulfill its statutory obligation to the public to review and investigate allegations involving alleged civil rights and civil liberties abuses regarding DHS polices and activities.

Consequences for not using the fillable form include overall delays in processing and an increased frequency in need to follow up with complainants to obtain the types of information requested on the form.

The assurance of confidentiality provided to the respondents for this information collection will be provided by: CRCL's statute under 6 U.S.C. 345, 42 U.S.C. 2000ee–1; the Privacy Impact Assessment for the CRCL Complaint Form and Privacy Waiver; and the Systems of Record Notice: Department of Homeland Security/ALL–029 Civil Rights and Civil Liberties Records

System of Records. This is a new information collection and, therefore, there are no changes.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

**Analysis**

*Agency:* Department of Homeland Security (DHS).

*Title:* DHS Civil Rights and Civil Liberties Complaint and Privacy Waiver Form.

*OMB Number:* 1600–NEW.

*Frequency:* On Occasion.

*Affected Public:* Members of the Public or non-government organizations.

*Number of Respondents:* 692.

*Estimated Time per Respondent:* 1.

*Total Burden Hours:* 692.

**Robert Dorr,**

*Executive Director, Business Management Directorate.*

[FR Doc. 2021–17959 Filed 8–20–21; 8:45 am]

**BILLING CODE 9112–FL–P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### Intent To Request Revision From OMB of One Current Public Collection of Information: Aviation Security Customer Satisfaction Performance Measurement Passenger Survey

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 60-Day notice.

**SUMMARY:** The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0013, that we will submit to OMB for a revision in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves surveying travelers to measure customer satisfaction with their aviation security screening experience in an effort to manage TSA's performance at the airport more efficiently.

**DATES:** Send your comments by October 22, 2021.

**ADDRESSES:** Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh at the above address, or by telephone (571) 227–2062.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Information Collection Requirement**

*OMB Control Number 1652–0013; Aviation Security Customer Satisfaction Performance Measurement Passenger Survey.* TSA, with OMB's approval, has conducted surveys of passengers at airports nationwide and now seeks approval to continue this effort. The surveys are administered using an intercept methodology. The intercept methodology uses TSA personnel who are not in uniform to approach passengers immediately following their screening experience and offer, but not require, the opportunity to complete a survey. The surveyors will have IDs displayed, showing they are Government employees or contractors. TSA uses the intercept methodology to randomly select passengers to complete the survey (such as by approaching 1 out of every 10 passengers in a given screening area) in an effort to gain survey data representative of the most relevant passenger demographics to capture data from a wide range of passengers, including passengers who—

- Travel on weekdays or weekends;
- Travel in the morning, mid-day, or evening;
- Pass through each of the different security screening locations in the airport;
- Are subject to more intensive screening of their baggage or person; and
- Experience different volume conditions and wait times as they proceed through the security checkpoints.

Each survey includes no more than 10 questions. All questions concern aspects of the passenger's security screening experience and are designed to help TSA identify areas in need of improvement. Participation is always voluntary.

Before each survey collection at an airport, TSA personnel determine whether to offer individuals a chance to participate using a printed card, an online portal accessed with a QR code link, or using a tablet or similar device. The method selected is usually based on the objective of a particular collection. For example, if internet access is limited, a paper based survey would be more appropriate than using tablets displaying an online survey. Passengers may be given an opportunity to respond in writing to the survey questions on the customer satisfaction card and depositing the card in a drop-box at the airport. In other situations, passengers may be provided an opportunity to follow a QR code link to an online survey or following a link listed on a printed card to an online survey).

OMB previously approved a total of 82 questions from which the survey questions were selected. TSA is reducing the number of questions to 46 and revising the list of questions to align with OMB Circular No. A–11's focus areas, such as trust and overall satisfaction, and allow for more meaningful data collection. The new set of questions also creates flexibility to

adapt the questions to new and emerging technology. TSA collects this information to continue to assess customer satisfaction in an effort to manage TSA employee performance more efficiently. TSA is requesting approval of the revision of the information collection.

TSA personnel have the capability to conduct this survey at approximately 25 airports each year. Based on prior survey data and research, TSA estimates 384 responses from the passengers at each airport. The average number of respondents is estimated to be 9,600 per year (384 passengers × 25 airports). TSA estimates that the time it takes to complete the survey either online or by writing on the form ranges from 3 to 7 minutes, with an average of 5 minutes (0.083 hours) per respondent. Therefore, the annual burden is 800 hours (9,600 responses × 0.083 hours).

Dated: August 17, 2021.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2021–17947 Filed 8–20–21; 8:45 am]

**BILLING CODE 9110–05–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7039–N–06]**

## 60-Day Notice of Proposed Information Collection: Section 3 Sample Certification Forms

**AGENCY:** Office of Field Policy and Management, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* October 22, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

### A. Overview of Information Collection

*Title of Information Collection:* Section 3 Sample Certification Forms.

*OMB Approval Number:* 2501–New.

*Type of Request:* New.

*Form Number:* HUD Forms 4736, 4736A, 4736B, 4736C, 4736D.

*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 at 24 CFR part 75 is effective November 30th, 2020 and replaces the regulations found at 24 CFR part 135.

24 CFR 75.31 provides a number of options for certification that individuals meet the new definitions in the new final rule:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker for public housing financial assistance:

(A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker for a section 3 project (housing and community development financial assistance):

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

These forms are designed to assist grant recipients and contractors with their recordkeeping requirements found in the regulation.

*Respondents:* HUD recipients of public housing financial assistance, certain HUD recipients of housing and community development financial assistance, certain HUD grantees, public housing residents and other eligible Section 3 workers.

*Estimated Number of Respondents:*

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Total burden hours | Hourly per response | Annual cost |
|---|---|---|---|---|---|---|---|
| HUD Form 4736—*PH Certification Form* | 150 | 1 | 150 | 0.5 | 75 | $49.83 | $3,737.25 |
| HUD Form 4736A—*Worker Employer Certification HCD* | 500 | 1 | 500 | 0.5 | 250 | 45.80 | 11,450.00 |
| HUD Form 4736B—*Employer Certification PHA* | 500 | 1 | 500 | 0.5 | 250 | 45.80 | 11,450.00 |
| HUD Form 4736C—*Worker Self Certification HCD* | 500 | 1 | 500 | 0.5 | 250 | 7.25 | 1,812.50 |
| HUD Form 4736D—*Employee Self-Certification PHA* | 500 | 1 | 500 | 0.5 | 250 | 7.25 | 1,812.50 |
| Total | 2,150.00 | | 2,150.00 | 2.5 | 1,075.00 | | 30,262.25 |

### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

### C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

**Krista Mills,**

*Director, Office of Field Policy and Management.*

[FR Doc. 2021–17983 Filed 8–20–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7039–N–05]**

## 60-Day Notice of Proposed Information Collection: Section 3 Sample Utilization Plans

**AGENCY:** Office of Field Policy and Management, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* October 22, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

### A. Overview of Information Collection

*Title of Information Collection:* Section 3 Sample Utilization Plans.

*OMB Approval Number:* 2501–New.

*Type of Request:* New.

*Form Number:* HUD Forms 4737, 4737A, 4737B, 4737C, 4737D.

*Description of the need for the information and proposed use:* This collection is to document the Section 3 labor hours for Section 3 workers and Section 3 Business concerns for employment and economic opportunities generated by public housing financial assistance and section 3 projects as well as the HUD funding/grants generating the opportunities. This collection is reflective of the changes to the Section 3 regulation, published in the **Federal Register** 9/29/2020. Grantees of HUD financial assistance can use this as a sample tool to document their Section 3 labor hours. This collection is not a requirement but is to be used as a sample if grantees do not already have a process in place to document Section 3 labor hours.

*Respondents* (*i.e.,* affected public): HUD recipients of public housing financial assistance, certain HUD recipients of housing and community development financial assistance, certain HUD grantees, public housing residents and other eligible Section 3 workers.

*Estimated Number of Respondents:*

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Total burden hours | Hourly per response | Annual cost |
|---|---|---|---|---|---|---|---|
| HUD Form 4737 *Utilization Tracker* | 2,500.00 | 1.00 | 2,500.00 | 5.00 | 12,500.00 | $42.01 | $525,125.00 |
| HUD Form 4737A *Utilization Tracker* | 2,500.00 | 1.00 | 2,500.00 | 5.00 | 12,500.00 | 42.01 | 525,125.00 |
| HUD Form 4737B *PHA Utilization Plan* | 2,500.00 | 1.00 | 2,500.00 | 1.50 | 3,750.00 | 49.83 | 189,862.50 |

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Total burden hours | Hourly per response | Annual cost |
|---|---|---|---|---|---|---|---|
| HUD Form 4737C *HCD Utilization Plan* ..... | 2,500.00 | 1.00 | 2,500.00 | 1.50 | 3,750.00 | 34.18 | 139,425.00 |
| HUD Form 4737D *HUD Funding Tracker* ..... | 2,500.00 | 1.00 | 2,500.00 | 3.00 | 7,500.00 | 42.01 | 315,075.00 |
| Total ..... | 12,500.00 | ..... | ..... | 16.00 | 40,000.00 | ..... | 1,694,612.50 |

• Utilization Tracker and Funding Tracker hourly response rate has been determined by a mean of the PHA and HCD hourly response rates.

• PHA utilization hourly response is set at the median hourly rate of a General Operation Manager, per OES, *https://www.bls.gov/oes/.*

• The HCD hourly response rate has been determined by the median hourly rate of a compliance manager, per OES, *https://www.bls.gov/oes/.*

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

*Authority:* Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

**Krista Mills,**

*Director, Office of Field Policy and Management.*

[FR Doc. 2021–17981 Filed 8–20–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R4–NWRS–2019–N160; FXRS12610400000–201–FF04RFLX00; 40136–1265–0000–S3]**

### Arthur R. Marshall Loxahatchee National Wildlife Refuge, Palm Beach County, FL; Boundary Adjustment

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

**ACTION:** Notice.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have adjusted the acquisition boundary line of a section of Arthur R. Marshall Loxahatchee National Wildlife Refuge, to reflect an approved action from 2015.

**ADDRESSES:** Accessing Documents: You may review maps depicting the boundary revision by either of the following methods.

• *Internet: https://http://www.fws.gov/refuge/ARM_Loxahatchee/map.html.*

• *In-Person Inspection:* Arthur R. Marshall Loxahatchee National Wildlife Refuge Headquarters, 10211 Lee Road, Boynton Beach, FL 33473. (Please call 561–735–6022 to make an appointment.)

**FOR FURTHER INFORMATION CONTACT:** Rolf Olson, Project Leader, 561–735–6022.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have adjusted the approved acquisition boundary line surrounding a section of Arthur R. Marshall Loxahatchee National Wildlife Refuge (Refuge), to reflect an approved action from 2015. Specifically, the South Florida Water Management District and Service agreed to exchange two parcels of land adjacent to the Refuge in western Palm Beach County. The land-for-land exchange was finalized on January 11, 2018.

**Background**

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Administration Act; 16 U.S.C. 668dd *et seq.*) provides authority for the Service to manage national wildlife refuges across the country. In accordance with the Administration Act, refuges are managed to fulfill the mission of the National Wildlife Refuge System; fulfill the individual purpose of each refuge; and maintain the biological integrity, diversity, and environmental health of the refuge system.

According to the Fish and Wildlife Coordination Act, national wildlife refuges ''. . . shall be administered by [the Secretary of the Interior] directly or in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon . . . .'' (16 U.S.C. 664). Further, the Migratory Bird Conservation Act of 1929, 45 Stat. 1222, states that a refuge is ''. . . . for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.'' (16 U.S.C. 715d).

The Refuge is the last remnant of the once vast northern Everglades ridge and slough landscape.

The Act of June 30, 1948, 62 Stat. 1171, 1176, authorizing the construction of the Central and Southern Florida Flood Control Project, and the Fish and Wildlife Coordination Act of March 10, 1934, 48 Stat. 401, amended by the Act of August 14, 1946, 60 Stat. 1080, all authorized the establishment of the Refuge, which took place on January 1, 1951. Notice of the Refuge boundary was published in the **Federal Register** on October 21, 1955 (20 FR 7950).

The Refuge was created by two agreements entered into by the Department of the Interior. The first agreement is a General Plan with the Florida Game and Fresh Water Fish Commission (now the Florida Fish and Wildlife Conservation Commission) which permitted state Water Conservation Area (WCA)–1 to be used by the Service for the national migratory bird management program. The second agreement is a long-term (50-year) License Agreement between the Service and the Central and Southern Florida Flood Control District (now SFWMD) which provided for the use of WCA–1 by the Service ''as a Wildlife Management Area, to promote the conservation of wildlife, fish, and game, and for other purposes embodying the principles and objective of planned multiple land use.'' The Service manages the area as a national wildlife refuge (NWR) under the terms of the

License Agreement and regulations governing the NWR system at Title 50, Code of Federal Regulations.

In 2002, the License Agreement was revised and renewed for an additional 50 years. On February 26, 2018, the Service and SFWMD entered into a renegotiated 20-year license agreement.

Currently, the size of the licensed lands, referred to as the Refuge Interior, is approximately 141,374 acres. In addition to the ''Refuge Interior,'' the USFWS owns 3,814.50 acres in fee title to the east. This acreage is sub-divided into three management impoundments (A, B, and C), a 400-acre cypress swamp, and the recently added 2,586-acre Strazzulla Marsh (see below). In total, the Refuge currently includes 145,188 acres.

**Introduction**

In 2015, the Service developed an environmental assessment under which the Service would exchange a Service-owned property, Compartment D, with a State of Florida-owned property, Strazzulla Marsh. Both parcels are adjacent to WCA–1, the northern limit of the greater Everglades ecosystem. The purpose of the exchange was to bring Strazzulla Marsh, which is the last remaining sawgrass habitat in the eastern Everglades and one of the few remaining sawgrass marshes adjacent to the coastal ridge, into permanent protection as part of the Refuge. At the same time, the SFWMD obtained Compartment D for use as part of the Everglades Restoration Strategies Initiative, to improve overall water quality in the Everglades Protection Area.

When the Congressional Appropriations Committee approved the proposed land exchange, it requested that the Refuge acquisition boundary be formally adjusted to reflect the changes in land ownership. This Notice satisfies this request and ensures that the current Refuge boundary is properly recorded.

The Service today announces that it has adjusted the Refuge boundary lines to reflect this approved action (See Appendices), which removes the 1,327-acre Compartment D parcel, which is now owned by the State of Florida, from the Refuge acquisition boundary. This action also brings a portion of Strazzulla Marsh, which was acquired by the United States in exchange for Compartment D, within the approved Refuge acquisition boundary.

**Authority**

This notice is published under the authority of the Improvement Act, Public Law 105–57.

**Leopoldo Miranda-Castro,**

*Regional Director, U.S. Fish and Wildlife Service, Atlanta, GA.*

[FR Doc. 2021–18013 Filed 8–20–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–ES–2020–N081; FXES11140800000–212–FF08ECAR00]**

### Proposed Programmatic Safe Harbor Agreement for the California Red-Legged Frog; Orange, Riverside, and San Diego Counties, California; National Environmental Policy Act Documentation/Categorical Exclusion

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the receipt of an enhancement of survival (EOS) permit application from the Service's Carlsbad Fish and Wildlife Office that includes a proposed safe harbor agreement (SHA) in southern California for the federally threatened California red-legged frog. If granted, the SHA would provide for California red-legged frog recovery by providing a framework to reestablish frogs within their historical range. The EOS permit would be in effect for a 30-year period and would authorize take of the California red-legged frog incidental to the implementation of the Programmatic Safe Harbor Agreement in Orange, Riverside, and San Diego Counties, California. The documents available for review and comment are the SHA and National Environmental Policy Act documentation that supports a categorical exclusion. We invite comments from the public and Federal, Tribal, State, and local governments.

**DATES:** Written comments should be received on or before September 22, 2021.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the ''California red-legged frog SHA for Orange, Riverside, and San Diego Counties.''

*Obtaining Documents:* You may obtain the applicant's safe harbor agreements and the National Environmental Policy Act documentation from the internet at *https://www.fws.gov/Carlsbad.*

*Submitting Comments:* You may submit written comments by the following method:

- *Email: fw8cfwocomments@fws.gov.*

For additional information about submitting comments, see the Public Comments Solicited section below.

**FOR FURTHER INFORMATION CONTACT:** Scott Sobiech, 760–431–9440. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received an application from the Service's Carlsbad Fish and Wildlife Office for an enhancement of survival (EOS) permit pursuant to section 10(a)(1)(A) of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). The requested 30-year permit would authorize the incidental take of the California red-legged frog (*Rana draytonii*), which is federally listed as threatened, in exchange for conservation measures that are expected to provide a net conservation benefit for the species. The application includes a proposed SHA that describes allowable land uses and the conservation measures that are intended to produce a net conservation benefit for the California red-legged frog on non-Federal lands in Orange, Riverside, and San Diego Counties. Non-Federal property owners may enroll in this SHA, so long as the SHA remains in effect.

**Background**

Section 9 of the ESA and the implementing Federal regulations in effect at the time the California red-legged frog was listed prohibit the take of animal species listed as endangered or threatened. For the California red-legged frog, the take prohibitions as outlined in 50 CFR 17.31 apply, except that incidental take of California red-legged frog is not prohibited if resulting from routine ranching activities (as described in 50 CFR 17.43(d)(3)(i)–(xi) on private and tribal lands. ''Take'' is defined under the ESA as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species], or to attempt to engage in such conduct'' (16 U.S.C. 1532(19)). ''Harm'' includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, such as breeding, feeding, or sheltering (50 CFR 17.3). Under specified circumstances, however, we may issue

permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. ''Incidental taking'' is defined by the ESA implementing regulations as taking that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (50 CFR 17.3). Regulations governing incidental take permits for endangered and threatened species, respectively, are found at 50 CFR 17.22 and 50 CFR 17.32.

Under SHAs, private and non-Federal participating landowners voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species listed under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). SHAs, and the subsequent EOS permits that are issued pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation efforts for listed species, by assuring property owners that they will not be subject to increased land use restriction as a result of efforts to attract or increase the numbers or distribution of a listed species on their property. In this case, an ESA section 10(a)(1)(A) EOS permit is proposed to be issued to the Service's Carlsbad Fish and Wildlife Office under a programmatic SHA providing a specific level of incidental take coverage should the enrolled landowners' agreed-upon conservation measures and routine land uses (*e.g.,* recreation, ranching, agriculture, and maintenance activities) result in take of the covered species. Application requirements and issuance criteria for EOS permits through SHAs are found at 50 CFR 17.22(c) and 17.32(c).

**California Red-Legged Frog**

The California red-legged frog is currently extirpated from its former range in Southern California south of the Transverse Ranges. It was last recorded in Riverside County in the early 2000s. Population declines have been attributed to habitat loss and degradation including introduced predators, water diversions, and poor water quality. Eligible lands under the SHA include aquatic (*e.g.,* streams, creeks, ponds, and marshes), riparian, and adjacent upland habitat where threats to frogs have been addressed and minimized. Primary conservation measures implemented under the SHA include reintroductions, habitat management, and the minimization of potential threats (*e.g.,* bullfrog predation and sedimentation). Additional conservation measures include allowing agency staff to monitor frogs and their habitat and to salvage/rescue frogs when necessary. Covered land use activities include recreation, ranching, agriculture, maintenance activities, and ongoing activities associated with the enrolled lands.

If California red-legged frog populations become established within the eligible lands covered under the SHA, take of California red-legged frogs associated with the approved land uses and conservation measures outlined under the certificate of inclusion for enrolled lands would be authorized under the EOS permit during the 30-year permit term. The proposed SHA would implement conservation measures that contribute to the recovery of the California red-legged frog. The proposed SHA with the option for renewal is based on the commitment to implement the proposed SHA, including issuance of certificates of inclusion to participating non-Federal landowners. The reestablishment of the Southern California genetic lineage is an important conservation action for the species' recovery. Therefore, the cumulative impact of the SHA and the activities it covers, which are facilitated by the allowable incidental take, are expected to provide a net conservation benefit to the California red-legged frog.

**Public Comments Solicited**

We solicit written comments on the proposed safe harbor agreement and National Environmental Policy Act documentation described in this notice. All comments received by the date specified in **DATES** will be considered in development of a final safe harbor agreement for the California red-legged frog. You may submit written comments and information by email to the Service's Carlsbad Fish and Wildlife Office at the above address (see **ADDRESSES**).

**Public Availability of Comments**

Written comments we receive become part of the decision record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organization or businesses, and from individuals identifying themselves as representative or officials of organization or business, will be made available for public disclosure in their entirety.

**Authority**

We provide this notice under Section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations for the Department of the Interior (43 CFR part 46).

**Scott Sobiech,**

*Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.*

[FR Doc. 2021–17968 Filed 8–20–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R3–ES–2021–N184; FXES11130300000–201–FF03E00000]**

### Endangered and Threatened Species; Receipt of Recovery Permit Applications

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

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive your written comments on or before September 22, 2021.

**ADDRESSES:** *Document availability and comment submission:* Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TEXXXXXX; see table in **SUPPLEMENTARY INFORMATION**):

- *Email: permitsR3ES@fws.gov.* Please refer to the respective application number (*e.g.,* Application No. TEXXXXXX) in the subject line of your email message.
- *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife

Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

**FOR FURTHER INFORMATION CONTACT:** Nathan Rathbun, 612–713–5343 (phone); *permitsR3ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:**

## Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

## Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications:

| Application No. | Applicant | Species | Location | Activity | Type of take | Permit action |
|---|---|---|---|---|---|---|
| PER0016072 .. | Brittany Rogness, Urbana, IL. | Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*M. septentrionalis*). | IL, IN, IA, KS, MI, MN, MO, WV, WI. | Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts. | Capture, handle, harp trap, mist-net, band, collect tissue samples, radio-tag, enter hibernacula, release. | New. |
| ES95228C ..... | Terry VanDeWalle, Brandon, IA. | Add: New species—Rusty patched bumble bee (*Bombus affinis*)—to existing authorized species: Eastern Massasauga (*Sistrurus catenatus*). | IL, IN, IA, MI, MN, MO, WI. | Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts. | Capture, handle, temporary hold, release. | Amend. |
| ES72093B ..... | Rebecca Winterringer, Euclid, OH. | 34 freshwater mussel species. | Add: New location—KS—to existing authorized locations: AL, AR, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OK, OH, PA, TN, VA, WV, WI. | Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts. | Capture, handle, temporary hold, release. | Amend. |

## Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

## Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**Lori Nordstrom,**

*Assistant Regional Director, Ecological Services.*

[FR Doc. 2021–17995 Filed 8–20–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–R4–ES–2021–0074; FXES11140400000–212–FF04EF4000]**

## Renewal of Enhancement of Survival Permit and Modification of Safe Harbor Agreement for the Florida Scrub-Jay, Volusia County, FL; Categorical Exclusion

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

**ACTION:** Notice of availability; request for comment and information.

**SUMMARY:** We, the Fish and Wildlife Service (Service), have received a written request from Daytona State College (applicant) to renew the enhancement of the survival permit

permit) with minor amendments to an existing safe harbor agreement (SHA). Continued implementation of the SHA is intended to benefit the recovery of the federally listed threatened Florida scrub-jay in Volusia County, Florida. The Service is making the proposed permit renewal, which includes the applicant's proposed updated SHA (November 9, 2020), and our draft environmental action statement, available for public review and comment.

**DATES:** We must receive your written comments on or before September 22, 2021.

**ADDRESSES:**

*Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS–R4–ES–2021–0074 at *http://www.regulations.gov.*

*Submitting Comments:* If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2021–0074.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2021–0074; U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Erin Gawera, by telephone at 904–731–3121or via email at *erin_gawera@fws.gov.* Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the Fish and Wildlife Service (Service), have received a written request from Daytona State College (applicant) to renew an existing enhancement of survival permit (permit) for an additional 10 years beyond its current expiration date. The Service and the applicant have mutually agreed to minor amendments to the Safe Harbor Agreement (SHA). The existing permit associated with the SHA was issued on November 15, 2010, under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and is in effect until November 15, 2030. Renewing the permit associated with the SHA is intended to benefit the recovery of the federally listed threatened Florida scrub-jay (*Aphelocoma coerulescens*) on 76 enrolled acres (ac) of State-owned lands in Volusia County, Florida. The Service is making the proposed permit renewal, the modified SHA, and our draft environmental action statement (EAS) available for public review and comment. The draft EAS supports the Service's preliminary determination that the proposed permit renewal associated with the modified SHA is eligible for a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for public review.

## Background

Section 9 of the ESA prohibits the take of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Under the ESA, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term ''harm,'' as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term ''harass'' is defined in our regulations as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). Under specified circumstances, however, we may issue permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for threatened species are at 50 CFR 17.32.

Under a safe harbor agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the ESA. Safe harbor agreements, and the subsequent permits issued to participating landowners pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the landowners that they will not be subjected to increased property use restrictions as a result of their efforts to either attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Enrolled landowners may make lawful use of the enrolled property during the permit term and may incidentally take the listed species named on the permit. Application requirements and issuance criteria for permits associated with safe harbor agreements are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(c) and 17.32(c). As provided for in the Service's final Safe Harbor Policy (64 FR 32717; June 17, 1999), safe harbor agreements provide assurances that allow the property owner to alter or modify their enrolled property, even if such alteration or modification results in the incidental take of a listed species, to such an extent that the property is returned back to the originally agreed upon baseline conditions. Private landowners may voluntarily terminate a safe harbor agreement at any time, in accordance with 50 CFR 13.26. If this occurs, landowners must relinquish the associated incidental take permit pursuant to section 10(a)(1)(A) of the ESA.

## Safe Harbor Agreement

The State lands covered under the existing SHA and valid permit consist of 76 ac on the Daytona State College campus in Volusia County, Florida. The baseline established in 2010 was 1.4 ac of occupied Florida scrub-jay habitat. Daytona State College has managed the property above baseline and has not proceeded with facility development since entering the SHA. Proposed minor changes within the SHA-enrolled property include a revision to the master campus facility development plan. The revision would not affect the 2010 established baseline of 1.4 ac of occupied Florida scrub-jay, nor would it affect the SHA management actions. Under the modified SHA, the applicant will continue to undertake the following habitat maintenance and enhancement actions intended to benefit the Florida scrub-jay on the enrolled property: (1) Remove sand pine canopy; (2) create open sandy areas through mechanical means (including chopping and/or rootraking) or by using herbicides; and (3) manage habitat using prescribed fire and/or mechanical means. Under comment and review is the request to renew the existing valid Permit associated with the SHA that was issued November 15, 2010, under ESA, and is in effect until November 15, 2030. The applicant is requesting to extend the Permit period for an additional 10 years beyond its current expiration date.

## National Environmental Policy Act Compliance

The renewal of the permit is a Federal action that triggers the need for compliance with NEPA. The Service has made a preliminary determination that the proposed permit renewal is eligible for categorical exclusion under NEPA,

based on the following criteria: (1) Implementation of the SHA would result in minor or negligible adverse effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the SHA would result in minor or negligible adverse effects on other environmental values or resources; and (3) impacts of the SHA, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative adverse effects to environmental values or resources which would be considered significant. To make this determination, we used our EAS and low-effect screening form, which are also available for public review.

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

**Authority**

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6 and 43 CFR 46.305.

**Jay Herrington,**

*Field Supervisor, Jacksonville Field Office.*

[FR Doc. 2021–17986 Filed 8–20–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–ES–2021–N029; FXES11140800000–212–FF08EVEN00]**

### Habitat Conservation Plan for the Mount Hermon June Beetle; Categorical Exclusion for the Encore Development Project; Santa Cruz County, California

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft categorical exclusion (CatEx) for activities associated with an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended. The ITP would authorize take of the federally endangered Mount Hermon June beetle incidental to activities associated with the Encore Development Project. The applicant developed the draft HCP as part of their application for an ITP. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

**DATES:** Written comments should be received on or before September 22, 2021.

**ADDRESSES:**

*To obtain documents:* You may download a copy of the draft habitat conservation plan and categorical exclusion screening form, which includes the environmental action statement, at *http://www.fws.gov/ventura/,* or you may request copies of the documents by U.S. mail (below) or by electronic mail (see **FOR FURTHER INFORMATION CONTACT**).

*To submit written comments:* Please send us your written comments using one of the following methods:

- *U.S. mail:* Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Electronic mail: chad_mitcham@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Chad Mitcham, Fish and Wildlife Biologist, by phone at 805–644–1766, via email at *chad_mitcham@fws.gov,* or by U.S. mail to the Ventura Fish and Wildlife office (see **ADDRESSES**).

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft low-effect screening form and environmental action statement for activities associated with an application for an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant has developed a draft habitat conservation plan (HCP) that includes measures to minimize, avoid, and mitigate impacts to the federally endangered Mount Hermon June beetle (*Polyphylla barbata*). The permit would authorize take of the Mount Hermon June beetle incidental to otherwise lawful activities associated with the draft HCP for the Encore Development Project. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

**Background**

The Service listed the Mount Hermon June beetle as endangered on January 24, 1997 (62 FR 3616). Section 9 of the ESA (16 U.S.C. 1538) prohibits the ''take'' of fish or wildlife species listed as endangered; by regulation, the Service may extend the take prohibition to fish or wildlife species listed as threatened. ''Take'' is defined under the ESA to include the following activities: ''[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize incidental take of listed wildlife species. Incidental take is take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered wildlife are in the Code of Federal Regulations (CFR) at 50 CFR 17.22. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species.

**Proposed Project Activities**

Chris Perri has applied for a permit for incidental take of the Mount Hermon June beetle. The take would occur in association with activities including the construction of 16 apartments and associated infrastructure within a 1.487-acre project area. The entire 1.487-acre project area consists of suitable habitat for the Mount Hermon June beetle. The HCP includes avoidance and minimization measures for the Mount Hermon June beetle and mitigation for unavoidable loss of suitable habitat through the purchase of conservation credits at a Service-approved conservation bank.

**Public Comments**

If you wish to comment on the draft HCP and categorical exclusion screening form, you may submit comments by one of the methods in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that

your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

### Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

**Stephen P. Henry,**

*Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.*

[FR Doc. 2021–17975 Filed 8–20–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–R8–ES–2021–N027; FXES11140800000–212]**

## Endangered and Threatened Species; Receipt of an Enhancement of Survival Permit Application and Safe Harbor Agreement for Bluff Lake, San Bernardino County, California

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

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The Wildlands Conservancy (applicant) has submitted a safe harbor agreement (SHA) and applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to the Endangered Species Act. The Service is considering issuance to the applicant of a 30-year permit that would authorize take of the federally endangered mountain yellow-legged frog and unarmored threespine stickleback (a fish species). We have prepared a draft environmental action statement (EAS) for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act. We invite comments from the public on the aforementioned documents.

**DATES:** Written comments should be received on or before September 22, 2021.

**ADDRESSES:** You may view or download copies of the draft SHA and draft EAS and obtain additional information on the internet at *https://www.fws.gov/carlsbad/,* or obtain hard copies by calling the phone number listed below. You may submit comments or requests for more information by any of the following methods:

- *Email: fw8cfwocomments@fws.gov.* Include ''Bluff Lake SHA'' in the subject line of the message.
- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.

**FOR FURTHER INFORMATION CONTACT:** Jesse Bennett, by telephone at 760–431–9440 or by electronic mail at *Jesse_Bennett@fws.gov.* If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Wildlands Conservancy (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The Service is considering issuance to the applicant of a 30-year permit that would authorize take of the federally endangered mountain yellow-legged frog (*Rana muscosa*) and unarmored threespine stickleback (a fish species; *Gasterosteus aculeatus williamsoni*) through a safe harbor agreement (SHA). The purpose of this SHA is for the applicant to manage habitat for the species at Bluff Lake in San Bernardino County, California. The applicant seeks to provide for the long-term recovery of the species in the wild through the maintenance and/or enhancement of suitable habitat that can accommodate reestablishment of the site from captive populations or other extant locations that may be present within the historic range of the species. We have prepared a draft environmental action statement (EAS) for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

We invite comments from the public on the permit application, draft SHA, and draft EAS, which are available for review. The SHA describes the proposed project and the measures that the applicant would undertake to avoid and minimize take of the covered species.

### Background

SHAs are intended to encourage private or other non-Federal property owners to implement beneficial conservation actions for species listed under the ESA. SHA permit holders are assured that they will not be subject to increased property use restrictions as a result of their proactive actions to benefit listed species. Incidental take of listed species is authorized under a permit pursuant to the provisions of section 10(a)(1)(A) of the ESA. For an applicant to receive a permit through an SHA, the applicant must submit an application form that includes the following:

1. The common and scientific names of the listed species for which the applicant requests incidental take authorization;

2. A description of how incidental take of the listed species pursuant to the SHA is likely to occur, both as a result of management activities and as a result of the return to baseline; and

3. A description of how the SHA complies with the requirements of the Service's Safe Harbor Policy (64 FR 32717, June 17, 1999).

For the Service to issue a permit, we must determine that:

1. The take of listed species will be incidental to an otherwise lawful activity and will be in accordance with the terms of the SHA;

2. The implementation of the terms of the SHA is reasonably expected to provide a net conservation benefit to the covered species by contributing to its recovery, and the SHA otherwise complies with the Service's Safe Harbor Policy;

3. The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any listed species;

4. Implementation of the terms of the SHA is consistent with applicable Federal, State, and Tribal laws and regulations;

5. Implementation of the terms of the SHA will not be in conflict with any ongoing conservation or recovery programs for listed species covered by the permit; and

6. The applicant has shown capability for and commitment to implementing all of the terms of the SHA.

The Service's Safe Harbor Policy and Safe Harbor Regulations (68 FR 53320; 69 FR 24084) provide important terms and concepts for developing SHAs. The policy and regulations are available at *http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html.*

### Proposed Action

The applicant's permit application includes a draft SHA, which covers 60 acres owned by the applicant in San Bernardino County, California. The proposed term of the permit and the SHA is 30 years. The permit would authorize incidental take of the two species that may occur while pursuing

conservation actions that are expected to provide a net benefit to these species. We have prepared a draft EAS for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under NEPA. We invite the public to review and comment on the permit application, draft SHA, and draft EAS.

This SHA provides for the management of mountain yellow-legged frog and unarmored threespine stickleback habitat at Bluff Lake, San Bernardino County, California. Bluff Lake occurs within the U.S. Geological Survey 7.5-minute series Big Bear Lake topographic quadrangle (township 2 north, range 1 west, section 34). When fully implemented, the SHA and requested enhancement of survival permit will allow the Applicant to return habitat conditions to baseline after the end of the 30-year term of the SHA and permit, if so desired by the applicant.

The SHA describes the management activities to be undertaken by the applicant, and the net conservation benefits expected to the mountain yellow-legged frog and unarmored threespine stickleback. Upon approval of this SHA, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the applicant authorizing take of the mountain yellow-legged frog and unarmored threespine stickleback incidental to the implementation of the management activities specified in the SHA; incidental to other lawful uses of the enrolled property including normal, routine land management activities; and to return to pre-SHA conditions (baseline).

Under the SHA, the applicant will allow the release of mountain yellow-legged frogs and unarmored threespine stickleback on the property. This release may involve the temporary placement of small enclosures. The applicant will further undertake management activities to benefit the mountain yellow-legged frog and unarmored threespine stickleback. This will include maintaining or improving habitat conditions on the property, throughout the duration of the SHA, except in the event of a natural disaster such as a wildfire or severe drought. The applicant will also minimize the potential impact of recreation and nonnative species management.

## National Environmental Policy Act Compliance

The development of the draft SHA and the proposed issuance of an enhancement of survival permit are Federal actions that trigger the need for compliance with the NEPA (43 U.S.C. 4321 *et seq.*). We have prepared a draft EAS to assess the probable scope of impacts of permit issuance and implementation of the SHA on the human environment. We have made a preliminary determination that issuing the permit and implementing the SHA would have minor or negligible impacts to the environment, and thus the proposed SHA and permit actions are eligible for categorical exclusion under NEPA. The basis for our preliminary determination is contained in the EAS, which is available for public review (see **ADDRESSES**).

## Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will sign the proposed SHA and issue a permit under section 10(a)(1)(A) of the ESA to the applicant. We will not make our final decision on the permit application until after the end of the public comment period, and we will fully consider all comments we receive during the comment period.

## Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made 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.

## Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR 46).

**Scott Sobiech,**

*Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.*

[FR Doc. 2021–17977 Filed 8–20–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

**[212D0102DM DS61100000 DLSN00000.000000 DX61101; OMB Control Number 1094–0001]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; the Alternatives Process in Hydropower Licensing

**AGENCY:** Office of the Secretary, Office of Environmental Policy and Compliance, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Secretary, Office of Environmental Policy and Compliance, Department of the Interior (we, OS–OEPC) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before September 22, 2021.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Dr. Shawn Alam, Office of Environmental Policy and Compliance, U.S. Department of the Interior, MS 2629–MIB, 1849 C Street NW, Washington, DC 20240; or by email to *Shawn_Alam@ios.doi.gov.* Please reference OMB Control Number 1094–0001 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Dr. Shawn Alam by email at *Shawn_Alam@ios.doi.gov,* or by telephone at (202) 208–5465. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On April 5, 2021, we published a **Federal Register** notice with a 60-day

public comment period soliciting comments on this collection of information (86 FR 17634). We received no comments in response to that notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the OS–OEPC; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OS–OEPC enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OS–OEPC minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The OMB regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

On November 23, 2016, the Departments of Agriculture, the Interior, and Commerce published a final rule on the March 31, 2015 revised interim final rule to the interim rule originally published in November 2005 at 7 CFR part 1, 43 CFR part 45, and 50 CFR part 221, to implement section 241 of the Energy Policy Act of 2005 (EP Act), Public Law 109–58, enacted on August 8, 2005. Section 241 of the EP Act added a new section 33 to the Federal Power Act (FPA), 16 U.S.C. 823d, that allowed the license applicant or any other party to the license proceeding to propose an alternative to a condition or prescription that one or more of the Departments develop for inclusion in a hydropower license issued by the Federal Energy Regulatory Commission (FERC) under the FPA. This provision required that the Department of Agriculture, the Department of the Interior, and the Department of Commerce collect the information covered by 1094–0001.

Under FPA section 33, the Secretary of the Department involved must accept the proposed alternative if the Secretary determines, based on substantial evidence provided by a party to the license proceeding or otherwise available to the Secretary, (a) that the alternative condition provides for the adequate protection and utilization of the reservation, or that the alternative prescription will be no less protective than the fishway initially proposed by the Secretary, and (b) that the alternative will either cost significantly less to implement or result in improved operation of the project works for electricity production.

In order to make this determination, the regulations require that all of the following information be collected: (1) A description of the alternative, in an equivalent level of detail to the Department's preliminary condition or prescription; (2) an explanation of how the alternative: (i) If a condition, will provide for the adequate protection and utilization of the reservation; or (ii) if a prescription, will be no less protective than the fishway prescribed by the bureau; (3) an explanation of how the alternative, as compared to the preliminary condition or prescription, will: (i) Cost significantly less to implement; or (ii) result in improved operation of the project works for electricity production; (4) an explanation of how the alternative or revised alternative will affect: (i) Energy supply, distribution, cost, and use; (ii) flood control; (iii) navigation; (iv) water supply; (v) air quality; and (vi) other aspects of environmental quality; and (5) specific citations to any scientific studies, literature, and other documented information relied on to support the proposal.

This notice of proposed renewal of an existing information collection is being published by the Office of Environmental Policy and Compliance, Department of the Interior, on behalf of all three Departments, and the data provided below covers anticipated responses (alternative conditions/prescriptions and associated information) for all three Departments.

*Title of Collection:* 7 CFR part 1; 43 CFR part 45; 50 CFR part 221; The Alternatives Process in Hydropower Licensing.

*OMB Control Number:* 1094–0001.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Business or for-profit entities.

*Total Estimated Number of Annual Respondents:* 5.

*Total Estimated Number of Annual Responses:* 5.

*Estimated Completion Time per Response:* 500 hours.

*Total Estimated Number of Annual Burden Hours:* 2,500 hours.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* Once per alternative proposed.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Stephen G. Tryon,**

*Director, Office of Environmental Policy and Compliance.*

[FR Doc. 2021–17932 Filed 8–20–21; 8:45 am]

**BILLING CODE 4334–63–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[DOI–BLM–NV–W010–2020–0030–EIS; LLNVW01000.L51100000.GN0000. LVEMF1907180.19XMO#4500153666]**

### Notice of Availability of the Final Environmental Impact Statement for the Proposed Gold Acquisition Corporation—Relief Canyon Gold Mine—Mine Expansion Amendment, Pershing County, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Humboldt River Field Office, Winnemucca, Nevada has prepared the Relief Canyon Mine Final Environmental Impact Statement (EIS) for the proposed expansion to the Relief Canyon gold mining operation in Pershing County, Nevada, and by this notice announces the availability of the Final EIS.

**DATES:** The BLM will not issue a final decision on the proposal for a minimum of 30-days after the Environmental Protection Agency publishes its notice of availability of the Gold Acquisition Corporation—Relief Canyon Gold Mine—Mine Expansion Amendment Final EIS DOI–BLM–NV–W010–2020–0030–EIS in the **Federal Register**.

**ADDRESSES:** Copies of the Relief Canyon Mine Plan Expansion and the Final EIS

are available for public inspection on the internet at *https://eplanning.blm.gov/eplanning-ui/project/2000567/510.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanette ''Jean'' Black; telephone: (775) 623–1500; email: *jblack@blm.gov;* address: 5100 E Winnemucca Blvd., Winnemucca, NV 89445. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Black during normal business hours. The FRS is available 24-hours a day, 7-days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** Gold Acquisition Corporation (GAC), a wholly owned subsidiary of Pershing Gold Corporation, itself a wholly owned subsidiary of Americas Gold and Silver Corporation, proposes an expansion to the existing Relief Canyon Gold Mine. The mine is located in Pershing County, Nevada, approximately 16 miles east-northeast of Lovelock, Nevada. The proposed expansion is located within GAC's authorized Plan of Operations boundary and proposes to modify the existing Plan of Operations as follows:

- Create roughly 576 acres of new surface disturbance on public and private land including re-disturbance of about 137 acres of previously disturbed vegetation communities.
- Expand the footprint of the existing approved pit area by approximately 84 acres (68 acres of public land and 16 acres of private land) with resultant elimination of a portion of existing Waste Rock Storage Facility (WRSF) 4.
- Mine to final pit bottom elevation of 4,420 feet above mean sea level (ft amsl), which will involve continued mining below the water table, and result in a post-mining pit lake that is predicted to reach an equilibrium elevation of 4,887 ft amsl roughly 50 years after completion of mining.
- Construct a dewatering conveyance pipeline and Rapid Infiltration to re-infiltrate up to 900 gallons per minute of mine dewatering water during the last 3 months of proposed mining.
- Install up to 50 vertical and horizontal drains in the pit wall to ensure pit slope stability and supplement pit dewatering operations.
- Convert up to 50 exploration drill holes located in and adjacent to the pit as vertical or near vertical drains and/or piezometer to monitor water levels to ensure pit slope stability and supplement pit dewatering operations.
- Expand WRSFs, heap leach pads, and construct process ponds, new growth media stockpiles, diversion ditches for stormwater control, and ancillary facilities.
- Expand yard and crusher-conveyor areas, roads, and fences.
- Close and reclaim all project facilities at the completion of the Project.

**Final EIS**

The Final EIS describes and analyzes the proposed project's direct, indirect, and cumulative impacts on all affected resources. The EIS analyzed the Proposed Action (Alternative A) and the No Action Alternative (Alternative B).

A Notice of Availability (NOA) of the Draft EIS for the proposed Project was published in the **Federal Register** on February 19, 2021 (86 FR 5246). Two virtual public meetings were held during the comment period. The BLM received 12 public comment documents during the 45-day comment period. The documents contained 70 individual comments with 36 substantive comments, which included concerns on potential impacts from the pit lake, groundwater quantity and quality, springs in the area near the mine, management of waste rock, rapid infiltration basins, and heap leach facilities, wildlife habitat loss, greater sage-grouse, golden eagles, pale kangaroo mice, and horses. These comments were considered and addressed in Appendix D (draft EIS Public Comments and Responses) of the Final EIS.

Comments on the Draft EIS received from the public and internal BLM review were considered and incorporated, as appropriate, into the Final EIS. Public comments resulted in corrections or the addition of clarifying text but did not significantly change the proposed action.

The BLM has consulted with the Nevada State Historic Preservation Office (SHPO) on the Project in accordance with the 2014 State Protocol Agreement between the BLM and Nevada SHPO for Implementing the National Historic Preservation Act. The BLM has determined that the Project would have no adverse effects to historic properties and the Nevada SHPO has concurred.

The BLM has consulted and continues to consult with Native American tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

(Authority: 40 CFR 1501.7)

**Ester M. McCullough,**

*District Manager, Winnemucca District Office.*

[FR Doc. 2021–18004 Filed 8–20–21; 8:45 am]

**BILLING CODE 4310–HC–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1213]**

## Certain Light-Emitting Diode Products, Fixtures, and Components Thereof; Notice of Request for Submissions on the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on August 17, 2021, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

Unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: A limited exclusion order directed to certain light-emitting diode products, fixtures, and components thereof imported, sold for importation, and/or sold after importation by respondent RAB Lighting Inc. (''RAB'') of Northvale, New Jersey; and a cease and desist order directed to RAB. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on August 17, 2021. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by the close of business on September 16, 2021.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1213'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 18, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–18006 Filed 8–20–21; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332–586]**

## Foreign Censorship Part 2: Trade and Economic Effects on U.S. Businesses; Submission of Questionnaire and Information Collection Plan for Office of Management and Budget Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of submission of request for approval of a questionnaire and information collection to the Office of Management and Budget.

**SUMMARY:** 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.*

**ADDRESSES:** All Commission offices are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Due to the COVID–19 pandemic, the Commission's building is currently closed to the public. Once the building reopens, 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.

**FOR FURTHER INFORMATION CONTACT:** The project leaders for this investigation are Ricky Ubee, Shova KC, and George Serletis. The Commission is currently unable to accept paper correspondence for this investigation. Please direct all questions and comments about this investigation electronically to the project leaders via email at *foreign.censorship@usitc.gov* or by phone at 202–780–1638.

Comments about the proposal should be provided to the Office of Management and Budget, Office of Information and Regulatory Affairs through the Information Collection Review Dashboard at *https://www.reginfo.gov.* All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided electronically to the Commission's survey team via an email to *foreign.censorship@usitc.gov.*

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* General information concerning the Commission may be obtained by accessing its internet address (*https://www.usitc.gov*).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202–205–1810.

**SUPPLEMENTARY INFORMATION:** 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 in a letter dated 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 is scheduled to deliver its report to the Committee by July 5, 2022.

The Commission intends to submit the following draft information collection plan to OMB:

(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 questionnaire requests to be mailed:* 3,790.

(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.

Copies of the draft questionnaire and other supplementary documents may be downloaded from the USITC website at *https://www.usitc.gov/foreigncensorship.*

By order of the Commission.

Issued: August 18, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–18131 Filed 8–20–21; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on August 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Open Group, L.L.C. (''TOG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Agora Insights Ltd, Christchurch, NEW ZEALAND; Calsep A/S, Kongens Lyngby, DENMARK; CodeMettle, LLC, Atlanta, GA; Computer Modelling Group Ltd., Calgary, CANADA; Cynosure, Inc., Wichita, KS; Deakin University, Geelong, AUSTRALIA; EAC Business Technology LLC, Sao Bernardo do Campo, BRAZIL; Expro Group, Reading, UNITED KINGDOM; Faculdades Católicas, Rio de Janeiro, BRAZIL; Full-Stack Architecture International, LLC, Boca Raton, FL; G42 Cloud Technology L.L.C., Al Reem Island, UNITED ARAB EMIRATES, Galp Exploração e Produção Petrolífera S.A., Lisboa, PORTUGAL; Geopost Consultoria em Geologia e Geofísica Ltda, Rio de Janeiro, BRAZIL; Geoprovider AS, Stavanger, NORWAY; GeoSynergy Pty Ltd, Brisbane, AUSTRALIA; Hochschule für Technik, Wirtschaft und Kultur Leipzig, Leipzig, GERMANY; Huber+Suhner Astrolab, Warren, NJ; IesBrazil Technology & Innovation, Rio de Janeiro, BRAZIL; Instituto de Informatica da Universidade Federal do Rio Grande do Sul (UFRGS), Porto Alegre, BRAZIL; Intelie, Inc., Houston, TX; Intellicess, Inc., Austin, TX; LLC IBS Soft, Moscow, RUSSIAN FEDERATION; LogicGate, Inc., Chicago, IL; Modulo Security Solutions, Rio de Janeiro, BRAZIL; NIS j.s.c. Novi Sad, Novi Sad, SERBIA; Parasoft Corporation, Monrovia, CA; Prediktor AS, Fredrikstad, NORWAY; Red Rock Technologies, Inc., Tempe, AZ; ResFrac Corporation, Palo Alto, CA; Rock Flow Dynamics, Singapore, SINGAPORE; ScioTeq LLC, Duluth, GA; Singularity Technologies, Inc., Freehold, NJ; Snowflake Inc., San Mateo, CA; Stimline AS, Kristiansaand S, NORWAY; Strategic Communications, LLC, Louisville, KY; Tektronix, Inc., Beaverton, OR; The HDF Group, Champaign, IL; Tomahawk Robotics, Inc., Melbourne, FL; United Electronic Industries, Inc., Norwood, MA; VadaTech Incorporated, Henderson, NV; VMTC-Vincenzo Marchese Training & Consulting, London, UNITED KINGDOM; and Worley Group Inc., Houston, TX, have been added as parties to this venture.

Also, ALC Group, Kenmore, AUSTRALIA; BP Oil International Limited, Poplar, UNITED KINGDOM; Brain4ce Education Solutions Pvt. Ltd, Bangalore, INDIA; Bremer Institut far Produktion un Logistik GmbH (BIBA); Bremen, GERMANY; BusCorp Inc., Calgary, CANADA; CAST Navigation, LLC, Tewksbury, MA; CentraleSupélec, Châtenay-Malabry, FRANCE; Chengdu GKHB Information Technology Co., Ltd., Chengdu, PEOPLE'S REPUBLIC OF CHINA; CMC Electronics Aurora Inc., Sugar Grove, IL; Curtis & Associates Ltd., Port St. Mary, UNITED KINGDOM; Doccmott Enterprise Solutions (Pty) Ltd, Johannesburg, SOUTH AFRICA; ECIS Consultants Limited, Oxford, UNITED ARAB EMIRATES; GamingWorks BV, Bodegraven, THE NETHERLANDS; itSMF International, Copenhagen, DENMARK; Kepner-Tregoe, Inc., Princeton, NJ; Logic Solutions Group LLC,Houston, TX; Mentoris Group S.A.C., San Borja, PERU; OPENextech (Hangzhou) Co., Ltd, Hangzhou, PEOPLE'S REPUBLIC OF CHINA; Organizacion Educativa Certifica, S.C, Iztacalco, MEXICO; PCI Systems, Inc., Cupertino, CA; and State Bank of India, Navi Mumbai, INDIA, have withdrawn as parties to this venture.

In addition, Architecture Centre Ltd has changed its name to Advised Skills Ltd, London, UNITED KINGDOM; COTSWORKS, LLC, to COTSWORKS, Inc., Highland Heights, OH, and hpad, LLC to hpad, Inc. Bel Aire, KS.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on May 11, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 25, 2021 (86 FR 28149).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18035 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to The National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on July 22, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bowdoin College, Brunswick, ME; Campus EDU, Marion, IN; ClassGather, La Vergne, TN; Columbia County School District, Evans, GA; CoreFour, Richmond, CANADA; Early Learning Quick Assessment (ELQA), Moore, OK; Edge Factor Inc., Beamsville, CANADA; Education Advanced, Inc., Tyler, TX; Georgia Institute of Technology, Atlanta, GA; Hypothesis.is, San Francisco, CA; North Carolina Department of Public Instruction, Raleigh, NC; Revisely BV, Breda, NETHERLANDS; RIC One, Rye Brook, NY; Texas Education Agency, Austin, TX; University of Minnesota, Minneapolis, MN; VidGrid, Schaumburg, IL; Washington County Public Schools, Hagerstown, PA; and Weld North Education, Scottsdale, AZ, have been added as parties to this venture.

Also, DegreeData, Brownsville, TX; Austin Independent School District, Austin, TX; University of Kentucky, Lexington, KY; Sakai/Tsugi, Ann Arbor, MI; College voor Toetsen en Examens, Den Haag, ED, NETHERLANDS; Alief Independent School District, Houston, TX; and New Mexico Dept of Ed, Ruidoso, NM, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on May 3, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 25, 2021 (86 FR 28148).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18034 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to The National Cooperative Research and Production Act of 1993—BSTC

Notice is hereby given that, on July 13, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Border Security Technology Consortium (''BSTC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MicroStrategy, Tysons Corner, VA; and Sol Firm LLC, Mount Pleasant, SC have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BSTC intends to file additional written notifications disclosing all changes in membership.

On May 30, 2012, BSTC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 2012 (77 FR 36292).

The last notification was filed with the Department on April 23, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 25, 2021 (86 FR 28152).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18027 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to The National Cooperative Research and Production Act of 1993—Countering Weapons of Mass Destruction

Notice is hereby given that, on July 1, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Countering Weapons of Mass Destruction (''CWMD'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BTU Research LLC, Houston, TX; Chip Design Systems, Claymont, DE; FutureGenRobotics LLC, Boca Raton, FL; InnovaPrep LLC, Drexel MO; NCP Coatings, Inc., Niles, MI; Presco Engineering, Inc., Woodbridge, CT; Raytheon BBN Technologies Corporation, Cambridge, MA; Tac-Alert LLC, Austin, TX; The Rector and Visitors of the University of Virginia, Charlottesville, VA; The Trustees of Columbia University in the City of New York, New York, NY, and U.S. Civilian Research and Development Foundation, Arlington, VA, have been added as parties to this venture. Aeryon Defense USA, Denver, CO, and ARServices Limited, Alexandria, VA, have withdrawn from this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CWMD intends to file additional written notifications disclosing all changes in membership.

On January 31, 2018, CWMD filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 12, 2018 (83 FR 10750).

The last notification was filed with the Department on March 26, 2021. A

notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 2021 (86 FR 20521).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18026 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Z-Wave Alliance, Inc.

Notice is hereby given that, on July 16, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the ''Act''), Z-Wave Alliance, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Passiv UK Limited, Newbury, UNITED KINGDOM; Sybersense IOT, Millcreek, UT; POLYNHOME, Paris, FRANCE; Fermax Asia Pacific Pte Ltd, Braddell Tech, SINGAPORE; Power and Data Engineering, Alfords Point, AUSTRALIA; ImaGenius, Saugus, MA; Ochsner Clinic Foundation, New Orleans, LA; and Radios, Inc., Sanford, FL have joined as parties to the venture.

Also, PassivSystems Limited, Newbury, UNITED KINGDOM; Q-light, Kristiansand, NORWAY; Lera Smart Home Solutions, Minto, AUSTRALIA; ZWaveProducts.com, Inc., Randolph, NJ; VOLANSYS Technologies Pvt. Ltd., Santa Clara, CA; i4Things BV, DA Herten, THE NETHERLANDS; Airetec Pte Ltd, Primz Bizhub, SINGAPORE; Smart Home SA, Gland, SWITZERLAND; EcoNet Controls Inc., Burlington, CANADA; I2G D.O.O., Ljubljana, SLOVENIA; Dongguan Will Power Technology Co., Ltd, Guandong, PEOPLE'S REPUBLIC OF CHINA; Avant-Garde Technology Ltd, Abuja, NIGERIA; Insight Energy Ventures, LLC d/b/a Powerley, Royal Oak, MI; ROC-Connect, Inc., Palo Alto, CA; picard automation, San Francisco, CA; YATUN s.r.o., Praha, CZECH REPUBLIC; Transducers Direct, Cincinnati, OH; Tower Automation Pty Ltd, Dee Why, AUSTRALIA; Utilacor PTY LTD., Mount Evelyn, AUSTRALIA; Elektrizitätswerke des Kantons Zürich, Zurich, SWITZERLAND; Connection Technology Systems Inc. (SiMPNiC brand), New Taipei City, TAIWAN; Teracom Solutions Pty Ltd, Victoria, AUSTRALIA; TechniSat Digital GmbH, Daun, GERMANY; Ingenieurburo Hospe, Kelkheim, GERMANY; and Cassar & Son Industries L.L.C, Austin, TX have withdrawn as parties to the venture.

In addition, an existing member, There Corporation, Espoo, FINLAND, has changed its name to Trim Energy, Ltd.

No other changes have been made in the membership or the planned activity of this venture. Membership in this venture remains open, and Z-Wave Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 19, 2020, Z-Wave Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 1, 2020 (85 FR 77241).

The last notification was filed with the Department on April 21, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 11, 2021 (86 FR 25886).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18028 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on July 12, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Radiometric Services & Instruments LLC, Frederick, MD; Ningbo AirTAC Automation Industrial Co., Ltd., Ningbo City, PEOPLE'S REPUBLIC OF CHINA; Amphenol Canada Corp., Toronto, CANADA; Rheonik Messtechnik GmbH, Odelzhausen, GERMANY; Shenzhen Inovance Technology Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; and JFcontrol Co., Ltd., Suwon-si, SOUTH KOREA, have been added as parties to this venture.

Also, RFID, Inc., Dothan, AL, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on April 6, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 2021 (86 FR 20522).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18005 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—3d PDF Consortium, Inc.

Notice is hereby given that, on July 7, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), 3D PDF Consortium, Inc. (''3D PDF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adobe Systems Incorporated, San Jose, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and 3D PDF intends to file additional written notifications disclosing all changes in membership.

On March 27, 2012, 3D PDF filed its original notification pursuant to Section

6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 2012 (77 FR 23754).

The last notification was filed with the Department on January 22, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 2021 (86 FR 9376).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18010 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on August 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hagiwara America, Inc., Livonia, MI; Hagiwara Electric Europe GmbH, Dusseldorf, GERMANY; Singapore Hagiwara Pte., Ltd., East Singapore, SINGAPORE; Hagiwara Electric (Thailand) Co., Ltd., Bangkok, THAILAND; and Hagiwara (Shanghai) Co., Ltd., Shanghai, PEOPLE'S REPUBLIC OF CHINA, have been added as parties to this venture.

Also, Sanshin Electronics Co., Ltd., Tokyo, JAPAN; Sanshin Electronics (HK) Co., Ltd., Kowloon, Hong Kong, HONG KONG SAR; and Vtrek Electronics Co., Ltd., Guangzhou City, PEOPLE'S REPUBLIC OF CHINA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on February 18, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2021 (86 FR 13751).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18042 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Utility Broadband Alliance, Inc.

Notice is hereby given that, on July 26, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Utility Broadband Alliance, Inc. (''UBBA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ciena, Hanover, MD; Double Radius, Indian Trail, NC; EPRI, Palo Alto, CA; Hawaiian Electric, Honolulu, HI; SDG&E, San Diego, CA; and WESCO/Anixter, Pittsburgh, PA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UBBA intends to file additional written notifications disclosing all changes in membership.

On May 4, 2021, UBBA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 10, 2021 (86 FR 30981).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18044 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Fire Protection Association

Notice is hereby given that, on July 26, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Fire Protection Association (''NFPA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, NFPA has provided an updated and current list of its standards development activities, related technical committee and conformity assessment activities. Information concerning NFPA regulations, technical committees, current standards, standards development and conformity assessment activities are publicly available at *nfpa.org*.

On September 20, 2004, NFPA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 21, 2004 (69 FR 61869).

The last notification was filed with the Department on April 12, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 6, 2021 (86 FR 24415).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division, U.S. Department of Justice.*

[FR Doc. 2021–18052 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—MLCommons Association

Notice is hereby given that on July 12, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. Section 4301 *et seq.* (the ''Act''), MLCommons Association (''MLCommons'') filed written notifications simultaneously with the

Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Sanjay Purushotham (individual member), Baltimore, MD; Rebellions Inc., Gyeonggi-do, REPUBLIC OF KOREA; Nutanix, San Jose, CA; Huawei Technologies Co., Ltd. (ELO), Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Sam Ade Jacobs (individual member), Livermore, CA; Nel Swanepoel (individual member), London, UNITED KINGDOM; and Ayoub Elhanchi (individual member), Brossard, CANADA have joined as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and MLCommons intends to file additional written notifications disclosing all changes in membership.

On September 15, 2020, MLCommons filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 29, 2020 (85 FR 61032).

The last notification was filed with the Department on April 28, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 25, 2021 (86 FR 28148).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18020 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on June 10, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Onkyo Home Entertainment Corporation, Osaka, JAPAN has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on March 22, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 8, 2021 (86 FR 18299).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18003 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Naval Aviation Systems Consortium

Notice is hereby given that, on July 9, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Naval Aviation Systems Consortium, a division of Consortium Management Group, Inc. (''NASC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 1901 Group, LLC, Reston, VA; 5 Stones Technologies Inc., Temecula, CA; A.T. Kearney Public Sector and Defense Services, LLC, Arlington, VA; AASKI Technology, Tinton Falls, NJ; Accelerated Knowledge Transfer Optimize LLC, Cumming, GA; ACS, LLC, Lexington Park, MD; Acutronic USA Inc., Pittsburg, PA; Adamo Security Group, Lakeside, CA; Adranos, Inc., West Lafayette, IN; Advanced Simulation Technology Inc. (ASTi), Herndon, VA; Advantaged Solutions, Inc., Washington, DC; Aeroflex Wichita, Inc., Wichita, KS; Aerojet Rocketdyne Inc., Huntsville, AL; Aerovision LLC, West Palm Beach, FL; Affordable Engineering Services, San Diego, CA; Agile Decision Sciences, LLC, Huntsville, AL; AGOGE, Hailey, ID; Air Combat Effectiveness Consulting Group, LLC, Lexington Park, MD; AIRBUS U.S. Space & Defense, Inc., Herndon, VA; ALOFT AeroArchitects, Georgetown, DE; AMEWAS Incorporated, California, MD; Apogee Applied Research, Inc., Beavercreek, OH; Applied Insight, LLC, Vienna, VA; Applied Minds, LLC, Burbank, CA; Applied Research Associates, Inc., Raleigh, NC; Arcturus UAV, Inc., Petaluma, CA; Areté, Arlington, VA; ARGO Cyber Systems, LLC, Pensacola, FL; Ascent Vision Technologies, LLC, Belgrade, MT; AT&T Corporation, Oakton, VA; ATC—The Aluminum Trailer Company, Nappanee, IN; Attila Security, Columbia, MD; Auterion Government Solutions Inc., Moorpark, CA; Aviation System Engineering Company, Lexington Park, MD; AVX Aircraft Company, Benbrook, TX; Ayon Cybersecurity, Inc. d/b/a VDC, Cocoa, FL; BahFed Corp, Portland, OR; Ball Aerospace, Westminster, CO; Bascom Hunter, Baton Rouge, LA; Battelle Memorial Institute, Columbus, OH; Beachcomber Fiberglass Tech Inc., Stuart, FL; Becker Trailers LLC, West Salem, WI; Black Sage, Boise, ID; BlackHays Group LLC, Cedar Point, NC; Bohemia Interactive Simulations, Orlando, FL; Boston Consulting Group, Bethesda, MD; Bowhead Manufacturing Technologies, Plano, TX; Bowie State University, Bowie, MD; Bracari, LLC, Mount Pleasant, SC; Bright Apps LLC, Walnut Creek, CA; Bugeye Technologies, Inc., Union, MO; $C^2$ Technologies, Vienna, VA; Charles River Analytics, Cambridge, MA; Chartis Federal, McLean, VA; Clear-Com LLC, Alameda, CA; Clinkenbeard, South Beloit, IL; Cobalt Speech and Language, Inc., Tyngsboro, MA; Cobham Mission Systems, Davenport, IA; Cogito Innovations, LLC, Lexington Park, MD; Cole Engineering Services, Inc., Orlando, FL; College of Southern Maryland, La Plata, MD; Compass Systems Inc., Lexington Park, MD; Cordin Company, Salt Lake City, UT; Corsair Engineering, Inc., Kirkland, WA; CP Technologies, LLC, San Diego, CA; CPI Aero, Inc., Edgewood, NY; Cronos Consulting Group, San Diego, CA; Cross Domain Systems, Inc., Newport Beach, CA; CSEngineering, Annapolis, MD; CymSTAR, LLC, Broken Arrow, OK; Cypher, LLC, Leesburg, VA; Cypress International, Alexandria, VA; Dark

Wolf Solutions, LLC, Herndon, VA; Digital Design & Imaging Service, Inc., Falls Church, VA; Digital Receiver Technology, Inc., Germantown, MD; DLT Solutions, Herndon, VA; Dragonfly Pictures Inc., Essington, PA; DRS Systems, Inc., Melbourne, FL; Dynovis, Inc., Fairfield, VA; Emergency Landing Pad LLC, Pensacola, FL; Equinox Innovative Systems, Columbia, MD; Erickson Incorporated, Portland, OR; EXB Solutions Inc., Minneapolis, MN; EXEPRON, Palm Beach Gardens, FL; FAAC Incorporated, Ann Arbor, MI; Fabrisonic LLC, Columbus, OH; Federal Industries, Inc., El Segundo, CA; Flightdocs, Inc., Bonita Springs, FL; FlightSafety International, Broken Arrow, OK; FLIR Systems, Arlington, VA; Frequency Electronics, Inc., Uniondale, NY; Galaxy Unmanned Systems LLC, Arlington, TX; GaN Corporation, Huntsville, AL; GE Research, Schenectady, NY; General Atomics Aeronautical Systems Inc., Poway, CA; George Consulting, Ltd., Daniel Island, SC; Gnostech, LLC, Warminster, PA; Govini, Arlington, VA; GSD, LLC, Williamsburg, VA; Hardwire, LLC, Pocomoke City, MD; Helicon Chemical Company, Orlando, FL; Helix Group, LLC, Alamo, CA; IBC Materials & Technologies, Lebanon, IN; IDEMIA National Security Solutions, Alexandria, VA; Innovative Emergency Management, Inc., Morrisville, NC; Inova Drone Inc., San Diego, CA; Intelligent Fusion Technology, Inc., Germantown, MD; Invictus Global Services, Inc., White Salmon, WA; IT Partners, Inc., Herndon, VA; ITC Defense, Arlington, VA; iWorks Corporation, McLean, VA; JAKTOOL LLC, Cranbury, NJ; JEM Engineering, Laurel, MD; Jetoptera, Inc., Edmonds, WA; Key Cyber Solutions, Richmond, VA; KeyW, a wholly owned subsidiary of Jacobs, Severn, MD; Kinnear Cundari Associates (KCA), Alexandria, VA; Kittyhawk.io, San Francisco, CA; Kord Technologies, LLC, Huntsville, AL; Kranze Technology Solutions, Inc., Prospect Heights, IL; L3Harris Advanced Systems & Technologies, Ashburn, VA; L3Harris IAS, Waco, TX; L3Harris Technologies, Lexington Park, MD; Leonardo Helicopters USA Inc., Arlington, VA; LTM INC., Manassas, VA; Lufburrow & Company, Inc., Havre de Grace, MD; MAK Technologies, Orlando, FL; Marvin Engineering Company, Inglewood, CA; McNally Industries, LLC, Grantsburg, WI; MDO Systems Corporation, Annandale, VA; Micro Focus Government Solutions, Vienna, VA; MicroStrategy, Vienna, VA; Mide Technology, Woburn, MA; Mobilestack Inc., Pleasanton, CA; Moog, Inc., East Aurora, NY; Munro & Associates, Inc., Auburn Hills, MI; Mustang Services, LLC, Sealy, TX; n2grate, Greenbelt, MD; NanoflowX, Commerce, CA; Naval Logistics Solutions LLC, California, MD; NDI Engineering Company, Thorofare, NJ; Neany, Inc., California, MD; New England Complex Systems Institute, Cambridge, MA; Nimbus Virga Inc., Forest Hill, MD; NKT Photonics Inc., Boston, MA; Norseman Defense Services, Inc., Elkridge, MD; NuWaves Engineering, Middletown, OH; NX Aviation, Fredericksburg, VA; Octo Consulting Group, Reston, VA; Omni Federal, Gainesville, VA; Open Additive, LLC, Beavercreek, OH; Optensity, Inc., Herndon, VA; Oteemo, Inc., Reston, VA; Oxley Enterprises, Inc., Fredericksburg, VA; Padova Technologies, Glen Burnie, MD; PAE, Arlington, VA; Parraid LLC, Hollywood, MD; Peraton, Inc., Herndon, VA; Perikin Enterprises, LLC, Tullahoma, TN; PESA Switching Systems, Huntsville, AL; PredaSAR Corporation, Boca Raton, FL; Presagis, Orlando, FL; Presidio, Reston, VA; Production Systems Automation, Inc., Duryea, PA; Progeny Systems Corporation, Manassas, VA; Proksi Systems, Bensalem, PA; PteroDynamics Inc., Moorpark, CA; Pyramid Systems, Fairfax, VA; QinetiQ Inc., Lorton, VA; Quantum Applied Science & Research (QUASAR), Inc., San Diego, CA; R Cubed Engineering, LLC, Palmetto, FL; Rackspace Government Solutions, Reston, VA; RadioBro Corporation, Huntsville, AL; Rafael USA, Bethesda, MD; Ramco Systems Corporation, Princeton, NJ; Raytheon Technologies, Waltham, MA; Razorleaf Government Solutions LLC, Akron, OH; Rebellion Defense, LTD., Washington, DC; Redhorse Corporation, San Diego, CA; Render Security Engineering LLC, Lexington Park, MD; Robbins-Gioia, LLC, Alexandria, VA; Rolls-Royce Corporation, Indianapolis, IN; Rolls-Royce PLC, London, ENGLAND; SA Photonics, Inc., Los Gatos, CA; SA–TECH Inc., Oxnard, CA; SCI Technology Inc., Huntsville, AL; SeaLandAire Technologies, Inc., Jackson, MI; SecureCo, Inc., New York, NY; Seiler Instrument, Saint Louis, MO; SGB Enterprises, Santa Clarita, CA; ShadowObjects, LLC, Leonardtown, MD; Shield AI Inc., San Diego, CA; Shift5, Inc., Arlington, VA; Sierra Technical Services, Inc., Tehachapi, CA; SimiGon, Inc., Oviedo, FL; Slalom Consulting, Vienna, VA; Smartronix, LLC, Hollywood, MD; Space Data Corporation, Chandler, AZ; Space Information Laboratories, Santa Maria, CA; SPARC Research LLC, Warrenton, VA; Spark Electric, LLC, Linden, NJ; SPARTON, De Leon Springs, FL; Spectrum Solutions, Inc., Madison, AL; Sphinx Defense, Washington, DC; STAR Dynamics Corporation, Hilliard, OH; Stardog Union, Arlington, VA; STELL, Mountlake Terrace, WA; Swain Online Inc., Horsham, PA; Synergy Software Design, Columbia, MD; Systecon North America, Juno Beach, FL; Systems & Processes Engineering Corporation (SPEC), Austin, TX; Systima Technologies, Inc., Kirkland, WA; Team Carney, Inc., Alexandria, VA; Technology Management Associates, Inc., Chantilly, VA; Technology Unlimited Group, San Diego, CA; TechPort University of Maryland, California, MD; TechTrend, Inc., Fairfax, VA; Tektronix/Fortive Company, Beaverton, OR; TeleDevices, LLC, Duluth, GA; Tetra Tech, Inc., Arlington, VA; The Pennsylvania State University—Applied Research Laboratory, State College, PA; Throughput Bluestreak √ Bright AM, Delafield, WI; TMC Design Corporation, Las Cruces, NM; Toyon Research Corporation, Goleta, CA; Tracy A Barkhimer Acquisition Strategies & Consulting, LLC, Scotland, MD; TREALITY SVS, Xenia, OH; Trident Research, Austin, TX; Triton Systems, Inc., Chelmsford, MA; Trusted Science and Technology, Inc., Bethesda, MD; Ultra Electronics—ATS, Austin, TX; Universal Technical Resource Services, Inc., Cherry Hill, NJ; University of Notre Dame, Notre Dame, IN; Valkyrie Enterprises, Virginia Beach, VA; Vana Solutions, Beavercreek, OH; VAST Solutions LLC, Brielle, NJ; VegaMX Inc., New York, NY; Victory Solutions, Inc., Huntsville, AL; VisionThree, LLC, Indianapolis, IN; VOX Aircraft, Chicago, IL; VX Aerospace, Morganton, NC; Wayne Miller Associates, Stanhope, NJ; WhiteFox Defense Technologies, San Luis Obispo, CA; Wind River Systems, Inc., Yardley, PA; Wing Family Companies, Lafayette, CA; WITTENSTEIN motion control, Bartlett, IL; WPI Services, LLC d/b/a Systecon North America, Juno Beach, FL; X-Bow Systems Inc., Albuquerque, NM; XQT LLC, Plymouth, CA; YATO Solutions, Hanford, CA; and ZDEVCO, Oakland, CA, have been added as parties to this venture.

Also, Addx Corporation, Alexandria, VA; Advanced Aircraft Company, Hampton, VA; Advanced Ground Information Systems, Inc., Jupiter, FL; ALEX-Alternative Experts, LLC, Dumfries, VA; Alfresco Software, Inc., Alexandria, VA; Alta Via Consulting, LLC, Alexandria, VA; Apcerto, Ashburn, VA; Applied Technology, Inc., King

George, VA; Arrowhead Global, LLC, Clearwater, FL; ART Rugged Systems, Inc., El Dorado Hills, CA; Artisan Electronics, Odon, IN; Berg Manufacturing, Inc., Spokane, WA; Bevilacqua Research Corporation, Huntsville, AL; BiTMICRO Networks, Inc., Fremont, CA; Cambridge International Systems, Inc., Daniel Island, SC; Carolina Unmanned Vehicles, Raleigh, NC; Cintel, Inc., Huntsville, AL; Clear Ridge Defense LLC, Baltimore, MD; CLK Executive Decisions, LLC, Poquoson, VA; Compendium Federal Technology, Lexington Park, MD; CyberX Labs, Waltham, MA; deciBel Research, Inc., Huntsville, AL; Derco Aerospace, a Lockheed Martin Company, Milwaukee, WI; enVention, LLC, Huntsville, AL; Evanhoe & Associates, Inc., Dayton, OH; FGS, LLC, La Plata, MD; G2IT, LLC, Annapolis, MD; General Dynamics Mission Systems, Inc., Fairfax, VA; GenXComm, Inc., Austin, TX; GeoSpark Analytics, Inc., Herndon, VA; Greensight Agronomics, Inc., Boston, MA; HART Technologies, Inc., Manassas, VA; Hitachi Vantara Federal, Reston, VA; Hop Flyt, Lusby, MD; Intevac Photonics, Inc., Santa Clara, CA; KBRwyle, Lexington Park, MD; KnowledgeBridge International Inc., Herndon, VA; Mosaic ATM, Inc., Leesburg, VA; MTEQ, Inc., Lorton, VA; NCI Information Systems, Inc., Reston, VA; Nishati, Inc, Gilbert, AZ; OST, McLean, VA; Pacific Aerospace Consulting, San Diego, CA; Parsons Corporation, Huntsville, AL; Petascale Computing & Fabrication, Glenelg, MD; PreTalen, Ltd., Beavercreek, OH; Priority 5 Holdings, Inc., Needham, MA; Raytheon Company, Waltham, MA; REDCOM Laboratories, Inc., Victor, NY; SAP, Washington, DC; Science and Engineering Services LLC, California, MD; Silver Palm Technologies, Ijamsville, MD; Solers, Inc., Arlington, VA; Stryke Industries, LLC, Fort Wayne, IN; Technica Corporation, Dulles, VA; The Patuxent Partnership, Lexington Park, MD; Thomas Global Systems, Irvine, CA; Trifacta, Towson, MD; Trinary Software, Los Angeles, CA; Valour, LLC, Lexington Park, MD; VES, LLC, Aberdeen Proving Ground, MD; Visionary Business Solutions, LLC, Merchantville, NJ; Vyalex Management Solutions, Inc., Columbia, MD; and Wireless Research Center of North Carolina, Wake Forest, NC, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NASC intends to file additional written notifications disclosing all changes in membership.

On October 24, 2019, NASC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 11, 2019 (84 FR 67755).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18033 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on July 14, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Armaments Consortium (''NAC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ABL Space Systems Company, El Segundo, CA; AI.Reverie, Inc., New York, NY; Beretta USA Corp., Accokeek, MD; Columbus Technologies and Services, Inc., El Segundo, CA; DataRobot, Boston, MA; Design Automation Associates, Inc., Windsor Locks, CT; Eos Energetics, Inc., Penrose, CO; Faraday Technology Inc., Englewood, OH; General Atomics—Commonwealth Computer Research, Inc., Charlottesville, VA; Halferty Consulting, LLC, North Liberty, IA; Intrepid, L. L. C., Huntsville, AL; KGMade, LLC, Norcross, GA; Major Tool & Machine, Indianapolis, IN; Memsel Inc., Haltom City, TX; NAL Research Corporation, Manassas, VA; Paragon Force Incorporated, Bloomfield, IN; Protonex LLC, Santa Rosa, CA; Rescue Rover, LLC, Gaithersburg, MD; Rock West Composites, San Diego, CA; and TSH X3 LLC, Annapolis, MD, have been added as parties to this venture.

Also, Broden Resource Solutions LLC, Orono, MN; DeLUX Engineering, LLC DBA DeLUX Advanced Manufacturing, LLC, Newark, DE; Design Automation Associates, Inc., Windsor Locks, CT; General Sciences Inc., Souderton, PA; Mobilestack, Inc., Dublin, CA; and Presagis USA, Inc., Orlando, FL, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on April 9, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 11, 2021 (86 FR 25887).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18037 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenJS Foundation

Notice is hereby given that, on July 9, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenJS Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Stream.io, Dallas, TX; and Netflix, San Francisco, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on April 21, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 11, 2021 (86 FR 25885).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18031 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Execution of Rendezvous and Servicing Operations

Notice is hereby given that, on July 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Consortium for Execution of Rendezvous and Servicing Operations (''CONFERS'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Redwire Space, Inc, Jacksonville, FL; Voyager Space Holdings, Inc, Denver, CO; Kurs Orbital, Inc, Groton, CT; and Neutronstar Systems UG, Cologne, GERMANY have been added as parties to this venture.

In addition, Space Law & Policy Solutions, E. Rochester, NH; Marsh McLennan, New York, NY; and KinetX Aerospace, Inc, Tempe, AZ have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CONFERS intends to file additional written notifications disclosing all changes in membership.

On September 10, 2018, CONFERS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 19, 2018 (81 FR 53106).

The last notification was filed with the Department on May 04, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 24, 2021 (86 FR 27894).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18032 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Information Warfare Research Project Consortium

Notice is hereby given that, on July 15, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Information Warfare Research Project Consortium (''IWRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3Sphere Innovation Inc, Huntington Beach, CA; Arete Associates, Northridge, VA; Armedia LLC, Vienna, VA; Assured Wireless Corporation, San Diego, CA; Athena Consulting Group, LLC, North Charleston, SC; BeyondTrust Corporation, Duluth, GA; C4 Planning Solutions, LLC, Blythe, GA; Capstone Partners, Inc., Lancaster, PA; CUBRC, Inc., Buffalo, NY; DataHouse USA Inc., Honolulu, HI; Decision Lens Inc., Arlington, VA; Design Automation Associates, Inc., Windsor Locks, CT; Exium, Inc., Allen, TX; Greystones Consulting Group, Washington, DC; Illumio, Inc., Sunnyvale, CA; Improbable LLC, Arlington, VA; Innovatus Technology Consulting, San Diego, CA; IT Partners, Inc., Herndon, VA; NetNumber, Inc., Lowell, MA; Nobletech Solutions, Huntsville, AL; Partnership Solutions International, Painesville, OH; Ribbon Communications Federal, Westford, VA; Sentient Digital, Inc. dba Entrust Government Solutions, New Orleans, LA; Sertainty Corporation, Nashville, TN; SGSD Partners, LLC dba Elevate Government Solutions, Washington, DC; Shift5, Inc., Rosslyn, VA; Spectrum Bullpen, LLC, Palm Bay, FL; Taurean General Services, Boerne, TX; The Integration Group of Americas, Inc., Spring, TX; TIME Systems LLC, Dumfries, VA; TrueTandem LLC, Herndon, VA; TurbineOne LLC, San Francisco, CA; and Uptake Technologies, Inc., Chicago, IL have been added as parties to this venture.

Also, BlueCat Networks, Reston, VA; ICE ITS INC, Ashburn, VA; Newmoyer Geospatial Solutions LLC, Mount Pleasant, SC; Onoffblock, Inc. dba Xenesis, New Lenox, IL; Oteemo, Inc., Reston, VA; and Vitech Corporation, Blacksburg, VA have withdrawn from this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IWRP intends to file additional written notifications disclosing all changes in membership.

On October 15, 2018, IWRP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 23, 2018 (83 FR 53499).

The last notification was filed with the Department on April 29, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 24, 2021 (86 FR 27893).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18023 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Resilient Infrastructure + Secure Energy Consortium

Notice is hereby given that, on July 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Resilient Infrastructure + Secure Energy Consortium (''RISE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: 1st Call Technical Services, Inc., Bolingbrook, IL; ADC Energy USA, Inc., Long Beach, CA; ADL Ventures, San Francisco, CA; AECOM, Los

Angeles, CA; Aleta Technologies, Inc., Huntsville, AL; Alliance for a Climate Resilient Earth, Washington, DC; Ameresco, Washington, DC; American Water, Camden, NJ; Anodyne Technologies, Inc., Jamaica, NY; Autonomous CRE +, Yarmouth, MA; Available Power LLC, Fort Collins, CO; Avania Group LLC, Burtonsville, MD; BAM Superior Solutions LLC, Scottsdale, AZ; BayoTech, Inc., Albuquerque, NM; Beryl Renewables, Lompoc, CA; Boundless Impact Research & Analytics LLC, New York, NY; BTU Research LLC, Houston, TX; City Light & Power, Greenwood Village, CO; CleanCapital, New York, NY; CleanTech Strategies LLC, Seattle, WA; Climate Resilience Consulting, Chicago, IL; Climate Resilient Internet LLC, Canton, MA; Concurrent Technologies Corporation, Johnstown, PA; Creare LLC, Hanover, NH; Creative Erg LLC, Corvallis, MT; DuBose National Energy Services, Clinton, NC; Eagle Energy, Alexandria, VA; Electric Infrastructure Security Council, Inc., Washington, DC; Electric Power Research Institute, Palo Alto, CA; Emag-Associates LLC, North Augusta, SC; Emera Technologies, Tampa, FL; Enchanted Rock, Houston, TX; Energy and Utility Consultant, Monument, CO; Energy One Solutions International, Raleigh, NC; Equipto Electronics, Aurora, IL; George Mason University, Fairfax, VA; GlidePath Federal Solutions LLC, Elmhurst, IL; Golden State Energy Properties, Sacramento, CA; GPEKS Holding, Inc., Ottawa, CANADA; Guidehouse LLP, Falls Church, VA; Hawaii State Energy Office, Honolulu, HI; Heila Technologies, Inc., Somerville, MA; Idaho National Laboratory, Washington, DC; Idaho Scientific, Boise, ID; Instant Access Networks LLC, Arnold, MD; Integral Marketing, Crofton, MD; JLL, Washington, DC; JMH Group, Inc., Bethesda, MD; Julius Education, Cambridge, MA; Lamplighter Energy, Dover, DE; Launch Alaska, Anchorage, AK; Lockheed Martin, Bethesda, MD; McGeown Associates LLC, Bridgewater, NJ; Mesh Grid, Irvine, CA; Modula S, Inc., Ketchum, ID; MRIGLOBAL, Kansas City, MO; National Energy USA, Pensacola, FL; National Renewable Energy Laboratory, Golden, CO; National Rural Electric Cooperative Association, Arlington, VA; NGI Consulting, Seattle, WA; Nhu Energy, Inc., Tallahassee, FL; Nishati, Inc., Gilbert, AZ; NuSynergy Energy LLC, Aiken, SC; Packet Dynamics LLC, Denver, CO; Portable Solar, Inc., Miami, FL; POWER Engineers, Hailey, ID; Powered for Patients, East Greenwich, RI; PowerField Energy, Falls Church, VA; PowerSecure, Inc., Durham, NC; ProtoGen, Inc., Quakertown, PA; Purify Fuel, Inc., Houston, TX; Sandia National Laboratories, Livermore, CA; Sheuerman Consulting LLC, Springfield, VA; Shifted Energy, Honolulu, HI; SIA Solutions LLC, Houston, TX; Sierra Nevada Corporation, Centennial, CO; Smart Electric Power Alliance, Washington, DC; Smith Energy Technology, Sheridan, WY; Stem, Inc., Millbrae, CA; SunSpec Alliance, San Jose, CA; Sustainable Energy and Environmental Solutions, Charles Town, WV; The Charles Stark Draper Laboratory, Inc., Cambridge, MA; The Concourse Group, Annapolis, MD; The PMC Group LLC, Centreville, VA; ThinkBox Group LLC, Purcellville, VA; TIAG, Inc., Reston, VA; Typhoon HIL, Somerville, MA; Viele Exploratory Sustainable Solutions LLC, Livingston Manor, NY; and XENDEE Corporation, San Diego, CA.

The general area of RISE's planned activity is to help address the energy security and climate crises by reimagining how we use, generate, transport, and store energy and how we build efficient, modern, resilient infrastructure. RISE will also serve as an industry forum to engage with new federal energy and resilience policies, standards, and programs. The process will be fully collaborative and to fulfill its mission, RISE will recruit a broad array of members from manufacturers, technology startups, energy services companies, utilities, academic institutions, financiers, and legal, consulting, and engineering firms to accelerate energy and infrastructure modernization.

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18024 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Battery Innovation

Notice is hereby given that, on June 28, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Consortium for Battery Innovation (''CBI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Boab Metals, Perth, WA, AUSTRALIA; Inbatec, Hagen, GERMANY; Jiangsu New Chunxing Resource Recycling Co. Ltd, Shanghai, CHINA; Penox, Ohrdruf, GERMANY; Ramcar Technology, Sta. Maria, Bulacan, PHILIPPINES; Sorfin Yoshimura, Woodbury, NY, USA; and Stryten Manufacturing, Alpharetta, GA, USA have been added as parties to this venture.

Also, Recylex, GERMANY and Orzel Bialy, POLAND have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CBI intends to file additional written notifications disclosing all changes in membership.

On May 28, 2019, CBI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 21, 2019 (84 FR 29241).

The last notification was filed with the Department on January 15, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 2021 (86 FR 9372).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18015 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Manufacturing Design Innovation Institute

Notice is hereby given that, on June 30, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Digital Manufacturing Design Innovation Institute (''DMDII'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Engora, Cambridge, MA;

viax.io, Hoboken, NJ; Wulco, Inc., Cincinnati, OH; Numorpho Cybernetic System, Chicago, IL; ZVerse, Columbia, SC; Five Forks, Chicago, IL; North Carolina A&T State University, Greensboro, NC; Coupa, San Mateo, CA; Armis, Palo Alto, CA; Tethr_It, Austin, TX; Fairmount Tech, Witchita, KS; and GenMet, Mequon, WI, have been added as parties to this venture.

Also, Future Way Designs, Hamilton, OH; PUNDITAS LLC, Wakefield, MA; Bethel New Life, Chicago, IL; SantosHuman Inc., Coralville, IA; Wrightwood Precision Products, Chicago, IL; Scytec, Greenwood Village, CO; Connected Global Factory (SearchLite), Ann Arbor, MI; Tru-Fab Technology, Eastlake, OH; Transco Products, Chicago, IL; United Electric Corporation, Canonsburg, PA; SPIRE Manufacturing Solutions, Colorado Springs, CO; SimInsights, Lake Forest, CA; Southwest Research Institute (SwRI), San Antonio, TX; Visible Assets, Stratham, NH; Fraight Inc., Chicago, IL; Integris Group LLC, East Peoria, IL; Industrial Network Systems (INS), Arlington Heights, IL; Design Mill, Dubuque, IA; Electric Imp, Los Altos, CA; Factory Physics, Bryan, TX; Orion Quality Software, Cincinnati, OH; iBASEt, Foothill Ranch, CA; *MFG.com*, Marietta, GA; Halock Security Labs, Schaumburg, IL; Galois, Portland, OR; CreateASoft, Aurora, IL; Godwin Global, Charlotte, NC; L & J Omnico AGV, Clinton Township, MI; OptiPro Systems, Ontario, NY; Manufacturing Laboratories, Las Vegas, NV; HL Precision Manufacturing, Inc., Champaign, IL; Materials Data Management, Inc., Indianapolis, IN; Harbec, Inc., Ontario, NY; Applied Optimization Inc., Dayton, OH; Upskill (formerly APX Labs, Inc.), Herndon, VA; 3rd Dimension, Indianapolis, IN; Arysen Corporation, Independence, OH; Applied Automation Technologies, Rochester Hills, MI; Accu Solve Group, Getzville, NY; and IMA North America, Leominster, MA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DMDII intends to file additional written notifications disclosing all changes in membership.

On January 5, 2016, DMDII filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 9, 2016 (81 FR 12525).

The last notification was filed with the Department on March 31, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 2021 (86 FR 20521).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18011 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on July 2, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Intrinsix Corp., Marlborough, MA; Chip Scan, Inc., Rockaway Beach, NY; DT Professional Services LLC, Canoga Park, CA; Pennsylvania State University—Applied Research Laboratory, State College, PA; Appliedinfo Partners, Inc., Somerset, NJ; Wireless Infrastructure Association, Arlington, VA; Onclave Networks, Inc., McLean, VA; Transformational Security LLC, Columbia, MD; TurbineOne LLC, San Francisco, CA; Arete Associates, Northridge, VA; Premier LogiTech LLC, Coppell, TX; Taurean General Services, Inc., Boerne, TX; SFL Scientific LLC, Quincy, MA; Medivis, Inc., New York, NY; Sealing Technologies, Inc., Columbia, MD; Palantir USG, Inc., Palo Alto, CA; University of California San Diego, La Jolla, CA; KRI at Northeastern University LLC, Burlington, MA; Performance Defense LLC, Phoenix, AZ; RPI Group, Inc., Fredericksburg, VA; MTI Systems, Inc., Greenbelt, MD; Prizm XR, Inc., Cold Spring, NY; Sertainty Corporation, Nashville, TN; Titan Systems LLC, Lexington Park, MD; JEM Engineering LLC, Laurel, MD; Corsha, Inc., Vienna, VA; Scalable Network Technologies, Inc., Culver City, CA; Aegis Systems, Inc., New York, NY; Edaptive Computing, Inc., Dayton, OH; PeerSat LLC, Arlington, VA; Trilogy Networks, Boulder, CO; Aura Network Systems, Mclean, VA; NetNumber, Inc., Lowell, MA; Exium, Inc., Allen, TX; OmniMesh Technologies, Inc., Syracuse, NY; Sol Firm LLC, Mount Pleasant, SC; and Battelle Memorial Institute, Columbus, OH have been added as parties to this venture.

Also, Signal Hound, Inc., La Center, WA; SSC Innovations, Vienna, VA; and B23 LLC, Tysons, VA have withdrawn from this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 24, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on April 6, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 11, 2021 (86 FR 25888).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18016 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electrified Vehicle And Energy Storage Evaluation

Notice is hereby given that, on July 28, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Electrified Vehicle and Energy Storage Evaluation (''EVESE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Infineum USA L.P., Linden, NJ, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and EVESE intends to file additional written notifications disclosing all changes in membership.

On September 24, 2020, EVESE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 15, 2020 (85 FR 65423).

The last notification was filed with the Department on June 16, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 26, 2021 (86 FR 40079).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021–18045 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0243]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection: Grants Management System (JustGrants System)

**AGENCY:** Office of Justice Programs, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs, Office of Justice Programs, will be submitting 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Yeh, (202) 532–5929, Acting Deputy Director, Office of Audit, Assessment, and Management, Office of Justice Programs, Department of Justice, 810 7th Street NW, Washington, DC 20530.

**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 Bureau of Justice Statistics, 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:* Extension without change of a currently approved collection; non-substantive name change.

2. *The Title of the Form/Collection:* The existing title is the Community Partnership Grants Management System. Going forward, this collection will be referred to as the JustGrants System collection. The JustGrants System is the successor system to the Community Partnership Grants Management System, and encompasses and replaces the functionality of the latter.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* NA. The applicable component within the Department of Justice is Office of Audit, Assessment, and Management, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The primary respondents are state, local, and tribal governments, institutions of higher education, non-profit organizations, and other organizations applying for DOJ grants. JustGrants is a web-based grants applications system and award management system. It provides automated support throughout the award lifecycle, and facilitates reporting to Congress and other interested agencies. The system stores essential information required to comply with the Federal Funding Accountability and Transparency Act of 2006 (FFATA). JustGrants has also been designated the OJP official system of record for grants activities by the National Archives and Records Administration (NARA).

5. *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* An estimated 57,945 organizations will respond to the collections under JustGrants and on average it will take each of them from .17 to 9 hours to complete various award lifecycle processes within the system, varying from application submission, award management and reporting, and award closeout (a total average of 29.17 hours for all processes).

6. *An Estimate of the Total Public Burden (in hours) Associated with the collection:* The estimated public burden associated with this application is 160,528 hours.

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, 3E.405B, Washington, DC 20530.

Dated: August 18, 2021.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2021–18065 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0008]**

### Agency Information Collection Activities; Proposed eCollection Requested; Extension of a Currently Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

**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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Enhanced Training and Services to End Violence Against and Abuse of Women Later in Life Program (Elder Abuse Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0008. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 18 grantees of the Elder Abuse Program. Elder Abuse Program grants may be used for training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals. Grantees fund projects that focus on providing training for criminal justice professionals to enhance their ability to address elder abuse, neglect and exploitation in their communities and enhanced services to address these crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 18 respondents (Elder Abuse Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. An Elder Abuse Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 36 hours, that is 18 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: August 17, 2021.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2021–17926 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–0020]**

## Agency Information Collection Activities; Proposed eCollection Requested; Extension of a Currently Approved Collection

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until October 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

**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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* OVW Solicitation Template.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0020. U.S. Department of Justice, OVW.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: The affected public includes applicants to OVW grant programs authorized under the Violence Against Women Act of 1994 as amended. These include States, territories, Tribes or units of local government, institutions of higher education including colleges and universities, tribal organizations, Federal, State, tribal, territorial or local courts or court-based programs, State sexual assault coalitions, State domestic violence coalitions; territorial domestic violence or sexual assault coalitions, tribal coalitions, community-based organizations, and non-profit, nongovernmental organizations. The purpose of the solicitation template is to provide a framework to develop program-specific announcements soliciting applications for funding. A program solicitation outlines the specifics of the funding program; describes the requirements for

eligibility; instructs an applicant on the necessary components of an application under a specific program (*e.g.,* project activities and timeline, proposed budget); and provides registration dates, due dates, and instructions on how to apply within the designated application system. OVW is proposing revisions to the current OMB-approved solicitation template to reduce duplicative language, employ plain language, ensure consistency, outline all requirements clearly, and conform with 2 CFR part 200, Uniform Administrative Requirements, Cost Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that information will be collect annually from the approximately 1,800 respondents (applicants to the OVW grant programs). The public reporting burden for this collection of information is estimated at up to 30 hours per application. The 30-hour estimate is based on the amount of time to prepare a narrative, budget and other materials for the application and, if required, to coordinate with and develop a memorandum of understanding with requisite project partners.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 54,000 hours.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: August 17, 2021.

**Melody Braswell,**

*Department Clearance Officer, PRA U.S. Department of Justice.*

[FR Doc. 2021–17925 Filed 8–20–21; 8:45 am]

**BILLING CODE 4410–FX–P**

## MILLENNIUM CHALLENGE CORPORATION

**[MCC FR 21–07]**

### Proposed Agency Information Collection Request; Comment Request; Restricted Data Use Application; Submission to the Office of Management and Budget for Review and Approval

**AGENCY:** Millennium Challenge Corporation.

**ACTION:** 30-Day notice; request for comments; submission to the Office of Management and Budget for review and approval.

**SUMMARY:** The Millennium Challenge Corporation (MCC) 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, on or after the date of publication of this notice and invites the public to comment on the proposed collection. Public comments were previously requested via the **Federal Register** on April 22, 2021 during a 60-day comment period (86 FR 21358, April 22, 2021). This notice allows for an additional 30 days for public comment.

**DATES:** Comments are due by September 22, 2021.

**ADDRESSES:** This information collection request may be viewed at *https://www.reginfo.gov.* Follow the instructions to view Millennium Challenge Corporation collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website: *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documentation, may be directed to Christopher Ice, Acting Chief Information Officer, MCC, *pra@mcc.gov,* (202) 521–2652.

**SUPPLEMENTARY INFORMATION:**

*Title of Information Collection:* MCC Restricted Data Use Application.

*OMB Control Number:* Not assigned.

*Type of Review:* A new information collection.

*Affected Public:* The likely respondents are expected to be researchers, including university and college faculty and students, who will use this data for statistical analysis.

*Estimated Number of Respondents:* Approximately 50 new respondents are expected annually to access MCC-funded restricted data.

*Frequency:* One application for each restricted data package for which access is requested by a respondent.

*Estimated Average Burden per Response:* 90 minutes.

*Estimated Total Annual Burden:* 4,500 hours total.

*Respondents' Obligation:* Voluntary reply.

*Abstract:* MCC is committed to providing public access to high-value data collected as part of the development, implementation, and evaluation of MCC-funded assistance programs, while being equally committed to protecting the confidentiality of individuals and organizations from which the data are collected. To achieve these twin aims, MCC publishes de-identified public use files of microdata on its website through the MCC Evaluation Catalog. In addition, MCC plans to make restricted data files available in cases where the de-identification efforts for public use files would significantly impair the analytic potential of the data, or where the data contain highly sensitive information that cannot be shared as a public-use file. However, access to restricted data will only be granted to users who meet eligibility criteria and agree to terms of access established by MCC, including agreeing to follow strict requirements for maintaining data confidentiality. The MCC Restricted Data Use Application collects information that will be used by MCC and its data steward, the University of Michigan's Interagency Consortium for Political and Social Research (ICPSR), to evaluate whether respondents qualify for access to MCC's restricted data. The application, which will be submitted electronically, requires the provision of specific information by the respondent, such as (i) the name, contact information, and CV/Resume/Biosketch for each person that will access the restricted data, (ii) a research proposal describing the need for the data and how it will be used, (iii) evidence of Institutional Review Board approval or exemption of the research proposal, and (iv) a signed restricted data use agreement.

(Authority: Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35))

Dated: August 18, 2021.

**Thomas G. Hohenthaner,**

*Acting VP/General Counsel and Corporate Secretary.*

[FR Doc. 2021–18086 Filed 8–20–21; 8:45 am]

**BILLING CODE 9211–03–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

NSF issued a permit (ACA 2017–015) to Leidos Innovations Group on October 30, 2016. The issued permit allows the permit holder entry into Antarctic Specially Protected Areas (ASPAs). The following ASPAs containing historic huts from the Heroic Age of Antarctic Exploration: ASPA 155 Cape Evans, Ross Island; ASPA 157 Backdoor Bay, Cape Royds, Ross; ASPA 158 Hut Point, Ross Island and ASPA 159 Cape Adare, Borchgrevink Coast. The permit allows for educational visits to the historic huts for persons associated with the United States Antarctic Program. The permit holder proposes a permit modification to extend the expiration date of the permit until January 31, 2023.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17935 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

*Description of Permit Modification Requested:* The Foundation issued a permit (ACA 2017–019) to Leidos Innovations Group on October 30, 2016. The issued permit allows the applicant entry into five Antarctic Specially Protected Areas (ASPAs) in the Antarctic Peninsula Region. Entry into protected areas is necessary to support logistic and scientific objectives of the United States Antarctic Program.

Previous modifications to this permit, dated March 9, 2017, October 6, 2017, and January 8, 2020, expanded the list of ASPAs that can be entered and transited under the permit. Currently the permit holder is granted access to 13 ASPAs in the Antarctic Peninsula Region.

Now, the applicant proposes a modification to his permit to extend the expiration date of the permit until January 31, 2023.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17939 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

NSF issued a permit (ACA 2017–014) to Leidos Innovations Group on October 30, 2016. The issued permit allows the permit holder to transit through three marine Antarctic Specially Protected Areas (ASPAs) (ASPA 145 Port Foster, Deception Island South Shetland Islands; ASPA 152 Western Bransfield Strait and ASPA 153 Eastern Dallmann Bay) when necessary to support logistics and research operations.

The permit holder proposes a permit modification to extend the expiration date of the permit until January 31, 2013. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and

it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17934 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

*Description of Permit Modification Requested:* The Foundation issued a permit (ACA 2017–016) to Leidos Innovations Group on October 30, 2016. The issued permit allows entry into nine Antarctic Specially Protected Areas (ASPAs) in the Ross Sea Region. ASPAs permitted for entry under this permit include: ASPA 105 Beaufort Island, McMurdo Sound, Ross Sea; ASPA 116 New College Valley, Caughley Beach, Cape Bird, Ross Island; ASPA 121 Cape Royds, Ross Island; ASPA 122 Arrival Heights, Hut Point Peninsula, Ross Island; ASPA 124 Cape Crozier, Ross Island; ASPA 155 Cape Evans, Ross Island; ASPA 157 Backdoor Bay, Cape Royds, Ross; ASPA 158 Hut Point, Ross Island; and ASPA 172 Lower Taylor Glacier and Blood Falls, Taylor Valley, McMurdo Dry Valleys, Victoria Land.

A recent modification to this permit, dated October 6, 2017, added ASPA 113 Litchfield Island to the list of ASPAs permitted for entry.

Now the applicant proposes a modification to this permit to extend the expiration of the permit until January 31, 2023. This modification also includes a change to the list of agents granted ASPA entry under the permit.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17936 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670 as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

*Description of Permit Modification Requested:* The Foundation issued a permit (ACA 2017–021) to Leidos Innovations Group on October 30, 2016. The issued permit allows the applicant entry into 8 Antarctic Specially Protected Areas (ASPAs) in the McMurdo/Ross Sea region of Antarctica. Entry into the specially protected areas is permitted to support the research and logistic objectives of the United States Antarctic Program.

The applicant requests a permit modification to extend the expiration date of the permit until January 31, 2023.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

*Dates:* October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17941 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

*Description of Permit Modification Requested:* The Foundation issued a permit (ACA 2017–0023) to Leidos Innovations Group on October 30, 2017.

The issued permit allows the applicant entry into Antarctic Specially Protected Areas (ASPAs) in order to support the logistic and scientific objectives of the United States Antarctic Program. ASPAs permitted for entry under this permit include: ASPA 105 Beaufort Island, McMurdo Sound, Ross Sea, ASPA 106 Cape Hallett, Northern Victoria Land, Ross Sea; ASPA 113 Litchfield Island, Arthur Harbor, Anvers Island, Palmer Archipelago; ASPA 121 Cape Royds, Ross Island; ASPA 122 Arrival Heights, Hut Point Peninsula, Ross Island; ASPA 123 Barwick and Balham Valleys, Southern Victoria Land; ASPA 124 Cape Crozier, Ross Island; ASPA 131 Canada Glacier, Lake Fryxell, Taylor Valley, Victoria Land; ASPA 137 North-west White Island, McMurdo Sound; ASPA 138 Linneaus Terrace, Asgard Range, Victoria Land; ASPA 139 Biscoe Point, Anvers Island, Palmer Archipelago; ASPA 154 Botany Bay, Cape Geology, Victoria Land; ASPA 172 Lower Taylor Glacier and Blood Falls, Taylor Valley, McMurdo Dry Valleys, Victoria Land; and ASPA 175 High Altitude Geothermal sites of the Ross Sea region.

The applicant proposes a modification to his permit to extend the expiration of the permit until January 31, 2023.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17942 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

*Description of Permit Modification Requested:* The Foundation issued a permit (ACA 2017–018) to Leidos Innovations Group on October 30, 2016. The issued permit allows the applicant to enter Antarctic Specially Protected Area (ASPA) 122 Arrival Heights, Hut Point Peninsula, Ross Island. Agents are permitted to enter and transit the ASPA when necessary to support the research and logistics operations of the United States Antarctic Program.

Now the applicant proposes a modification to his permit to extend the expiration date of the permit until January 31, 2023. This modification also includes an update to the list of agents permitted entry under the permit.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17938 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

*Description of Permit Modification Requested:* The Foundation issued a permit (ACA 2017–017) to Leidos Innovations Group on October 30, 2016. The issued permit allows the applicant to conduct take of native mammal and bird species. Periodically native mammal and bird species enter the aircraft runways, the roads, and the ice pier at McMurdo Station, or the pier or general station area at Palmer Station. Such invasions pose operational safety concerns as well as potential harm to the animals. This permit authorizes permit agents to herd wildlife away from operational areas and out of harm's way. Individuals tasked with wildlife removal are trained in proper techniques designed to minimize disturbance.

The applicant proposes a modification to his permit to extend the expiration date of the permit until January 31, 2023. The modification also includes changes to permit language for updated accuracy.

The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17937 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit modification request received and permit issued.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a

requested permit modification and permit issued.

**DATES:** October 30, 2016–January 31, 2023.

The permit modification was issued on August 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–7420; email: *ACApermits@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** The National Science Foundation (NSF), as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection.

NSF issued a permit (ACA 2017–020) to Leidos Innovations Group on October 30, 2016. The issued permit allows the permit holder to import and use commercially available, bacteria supplement for municipal Wastewater Treatment Plants, to be used in the wastewater treatment plant at McMurdo Station, Antarctica. The permit includes mitigation measures to prevent release of bacteria into the Antarctic Environment, including sterilization of all effluent prior to discharge.

Now the permit holder proposes a permit modification to extend the expiration date of the permit until January 31, 2023. The Environmental Officer has reviewed the modification request and has determined that the amendment is not a material change to the permit, and it will have a less than a minor or transitory impact.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021–17940 Filed 8–20–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2021–0071]**

### Information Collection: Requests to Agreement States and Non-Agreement States for Information

**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, ''Requests to Agreement States and Non-Agreement States for Information.''

**DATES:** Submit comments by September 22, 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–2021–0071 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2021–0071.
- *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. ML21193A150.
- *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*

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.

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, ''Requests to Agreement States and Non-Agreement States for Information.'' 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 April 26, 2021, 86 FR 22077.

1. *The title of the information collection:* ''Requests to Agreement States and Non-Agreement States for Information''.

2. *OMB approval number:* 3150–0029.

3. *Type of submission:* Revision.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* One-time, on occasion.

6. *Who will be required or asked to respond:* 50 states, the District of Columbia, and Puerto Rico.

7. *The estimated number of annual responses:* 1,965.

8. *The estimated number of annual respondents:* 52.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 15,720.

10. *Abstract:* The NRC is requesting OMB approval of a plan for a generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. The Agreement States and non-Agreement States will be asked on a one-time or as needed basis to respond to a specific incident, to gather information on licensing and inspection practices or other technical information, or to provide comments on proposed policy and program updates. The results of such information requests, which are authorized under Section 274(b) of the Atomic Energy Act, will be utilized in part by the NRC in preparing responses to Congressional inquiries. In addition, the information can assist the Commission in its considerations and decisions involving Atomic Energy Act materials programs in an effort to make the national nuclear materials program more uniform and consistent.

Dated: August 17, 2021.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–17956 Filed 8–20–21; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2021–0084]**

## Information Collection: Facility Security Clearance and Safeguarding of National Security Information and Restricted Data

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Renewal of existing information collection; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Facility Security Clearance and Safeguarding of National Security Information and Restricted Data.''

**DATES:** Submit comments by October 22, 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:** You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0084. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

**FOR FURTHER INFORMATION CONTACT:** 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.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2021–0084 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2021–0084.
- *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 and NRC Form 405F are available in ADAMS under Accession Nos. ML21160A011 and ML21197A190.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.
- *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–2021–0084 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

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Part 95 of title 10 of the *Code of Federal Regulations,* ''Facility Security Clearance and Safeguarding of National Security Information and Restricted Data.''

2. *OMB approval number:* 3150–0047.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 405F.

5. *How often the collection is required or requested:* When new facility clearance requests are received, existing facility clearances are terminated, when respondents make changes reportable under the rule, including a mandatory submission every 5 years.

6. *Who will be required or asked to respond:* NRC-regulated facilities and their contractors who require access to, and possession of NRC classified information.

7. *The estimated number of annual responses:* 172 (144 reporting + 28 Recordkeepers).

8. *The estimated number of annual respondents:* 28.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 664 (490 Reporting + 174 Recordkeeping).

10. *Abstract:* The NRC-regulated facilities and their contractors who are authorized to access and possess classified matter are required to provide information and maintain records to ensure an adequate level of protection is provided to NRC classified information and material.

### III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: August 17, 2021.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–17961 Filed 8–20–21; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2021–0035]**

## Information Collection: Requirements for Renewal of Operating Licenses for Nuclear Power Plants

**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, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.''

**DATES:** Submit comments by September 22, 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–2021–0035 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2021–0035.
- *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. ML21168A068.
- *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*

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.

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, Part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.'' 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 May 19, 2021, (86 FR 27119).

1. *The title of the information collection:* 10 CFR part 54 ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants.''

2. *OMB approval number:* 3150–0155.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* There is a one-time application for any licensee wishing to renew the operating license for its nuclear power plant. There is a one-time requirement for each licensee with a renewed operating license to submit a letter documenting the completion of inspection and testing activities. All holders of renewed licenses must perform yearly record keeping.

6. *Who will be required or asked to respond:* Commercial nuclear power plant licensees who wish to renew their operating licenses and holders of renewed licenses.

7. *The estimated number of annual responses:* 66 (11 reporting responses + 55 recordkeepers).

8. *The estimated number of annual respondents:* 62 (1 initial license renewal application + 1 subsequent license renewal application + 5 completion letters + 55 recordkeepers).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 216,700 (160,200 hours reporting + 56,500 hours recordkeeping).

10. *Abstract:* 10 CFR part 54 establishes license renewal requirements for commercial nuclear power plants and describes the information that licensees must submit to the NRC when applying for a license renewal. The application must contain information on how the licensee will manage the detrimental effects of age-related degradation on certain plant systems, structures, and components to continue the plant's safe operation during the renewal term. The NRC needs this information to determine whether the licensee's actions will be effective in assuring the plants' continued safe operation during the period of extended operation. Holders of renewed licenses must retain in an auditable and retrievable form, for the term of the renewed operating license, all information and documentation required to document compliance with 10 CFR part 54. The NRC needs access to this information for continuing effective regulatory oversight.

Dated: August 17, 2021.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–17955 Filed 8–20–21; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2021–0001]**

### Sunshine Act Meetings

**TIME AND DATE:** Weeks of August 23, 30, September 6, 13, 20, 27, 2021.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and closed.

**MATTERS TO BE CONSIDERED:**

**Week of August 23, 2021**

There are no meetings scheduled for the week of August 23, 2021.

**Week of August 30, 2021—Tentative**

There are no meetings scheduled for the week of August 30, 2021.

**Week of September 6, 2021—Tentative**

There are no meetings scheduled for the week of September 6, 2021.

**Week of September 13, 2021—Tentative**

*Tuesday, September 14, 2021*

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

**Week of September 20, 2021—Tentative**

There are no meetings scheduled for the week of September 20, 2021.

**Week of September 27, 2021—Tentative**

*Thursday, September 30, 2021*

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines (Public Meeting) (Contact: Caty Nolan: 301–415–1535)

*Additional Information:* Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/*.

**CONTACT PERSON FOR MORE INFORMATION:** For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov*. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html*.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Betty.Thweatt@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 19, 2021.

For the Nuclear Regulatory Commission.

**Wesley W. Held,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2021–18150 Filed 8–19–21; 11:15 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Financial Resources Questionnaire (RI 34–1, RI 34–17, and RI 34–18) and Notice of Amount Due Because of Annuity Overpayment (RI 34–3, RI 34–19, and RI 34–20)

**AGENCY:** Office of Personnel Management.

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection request (ICR) with minor edits, Financial Resources Questionnaire (RI 34–1, RI 34–17, and RI 34–18) and Notice of Amount Due Because Of Annuity Overpayment (RI 34–3, RI 34–19, and RI 34–20).

**DATES:** Comments are encouraged and will be accepted until September 22, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to: *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to: *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

**SUPPLEMENTARY INFORMATION:** As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0167) was previously published in the **Federal Register** on June 8, 2021, at 86 FR 30503, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Financial Resources Questionnaire (RI 34–1), Financial Resources Questionnaire—Federal Employees' Group Life Insurance Premiums Underpaid (RI 34–17), and Financial Resources Questionnaire—Federal Employees Health Benefits Premiums Underpaid (RI 34–18), collects detailed financial information for use by OPM to determine whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. Notice of Amount Due Because Of Annuity Overpayment (RI 34–3), Notice of Amount Due Because of FEGLI Premium Underpayment (RI 34–19), and Notice of Amount Due Because of FEHB Premium Underpayment (RI 34–20), informs the annuitant about the overpayment and collects information from the annuitant about how repayment will be made.

**Analysis**

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Financial Resources Questionnaire/Notice of Debt Due Because of Annuity Overpayment.

*OMB Number:* 3206–0167.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 2,361.

*Estimated Time per Respondent:* 60 minutes.

*Total Burden Hours:* 2,361 hours.

U.S. Office of Personnel Management.

**Kellie Cosgrove Riley,**

*Director, Office of Privacy and Information Management.*

[FR Doc. 2021–18064 Filed 8–20–21; 8:45 am]

**BILLING CODE 6325–38–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Renewal Without Change of an Existing Information Collection; OPM Form 1655, Application for Senior Administrative Law Judge, and OPM Form 1655–A, Geographic Preference Statement for Senior Administrative Law Judge Applicant; OMB Control Number 3206–0248

**AGENCY:** Office of Personnel Management.

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** The Administrative Law Judge Program Office, U.S. Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0248, OPM Form 1655, *Application for Senior Administrative Law Judge,* and OPM Form 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant.* As required, OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on May 18, 2021 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

**DATES:** Comments are encouraged and will be accepted until September 22, 2021. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the U.S. Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Administrative Law Judge Program Office, U.S. Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, Attention: Ms. Diane Hobbs, Administrative Law Judge Program Manager, by phone at (202) 606–3822, or send via electronic mail to *diane.hobbs@opm.gov.*

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

OPM 1655, *Application for Senior Administrative Law Judge,* and OPM 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant,* are used by retired Administrative Law Judges seeking reemployment on a temporary and intermittent basis to complete hearings of one or more specified case(s) in accordance with the Administrative Procedure Act of 1946. This revision proposes to renew a currently approved collection.

**Analysis**

*Agency:* Administrative Law Judge Program Office, Office of Personnel Management.

*Title:* OPM 1655, *Application for Senior Administrative Law Judge,* and OPM 1655–A, *Geographic Preference Statement for Senior Administrative Law Judge Applicant.*

*OMB Number:* 3206–0248.

*Frequency:* Annually.

*Affected Public:* Federal Administrative Law Judge Retirees.

*Number of Respondents:* Approximately 150—OPM 1655/ Approximately 200—OPM 1655–A.

*Estimated Time per Respondent:* Approximately 30–45 Minutes—OPM 1655/Approximately 15–25 Minutes—OPM 1655–A.

*Total Burden Hours:* Estimated 94 hours—OPM 1655/Estimated 67 hours—OPM 1655–A.

Office of Personnel Management.

**Kellie Cosgrove Riley,**

*Director, Office of Privacy and Information Management.*

[FR Doc. 2021–18074 Filed 8–20–21; 8:45 am]

**BILLING CODE 6325–43–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92685; File No. SR–FINRA–2021–019]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Expiration Date of the Temporary Amendments set Forth in SR–FINRA–2020–015 and SR–FINRA–2020–027

August 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2021, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. 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

FINRA is proposing to extend the expiration date of the temporary amendments set forth in SR–FINRA–2020–015 and SR–FINRA–2020–027 from August 31, 2021, to December 31, 2021.[4] The proposed rule change would not make any changes to the text of FINRA rules.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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

In response to the COVID–19 global health crisis and the corresponding need to restrict in-person activities, FINRA filed proposed rule changes, SR–FINRA–2020–015 and SR–FINRA–2020–027, which respectively provide temporary relief from some timing, method of service and other procedural requirements in FINRA rules and allow FINRA's Office of Hearing Officers (''OHO'') and the National Adjudicatory Council (''NAC'') to conduct hearings, on a temporary basis, by video conference, if warranted by the current COVID–19-related public health risks posed by an in-person hearing. In April 2021, FINRA filed a proposed rule change, SR–FINRA–2021–006, to extend the expiration date of the temporary amendments in both SR–FINRA–2020–015 and SR–FINRA–2020–027 from April 30, 2021, to August 31, 2021.[5]

While there are signs of improvement, much uncertainty remains for the coming months. The emergence of the Delta variant, dissimilar vaccination rates throughout the United States, and the uptick in transmissions in many locations indicate that COVID–19 remains an active and real public health concern.[6] Based on its assessment of current COVID–19 conditions and the lack of a clear timeframe for a sustained and widespread abatement of COVID–19-related health concerns and corresponding restrictions,[7] FINRA has determined that there is a continued need for temporary relief for several months beyond August 31, 2021. Accordingly, FINRA proposes to extend the expiration date of the temporary rule amendments in SR–FINRA–2020–015 and SR–FINRA–2020–027 from August 31, 2021, to December 31, 2021.

i. SR–FINRA–2020–015

As stated in its previous filings, FINRA proposed, and subsequently extended, the changes set forth in SR–FINRA–2020–015 to temporarily amend some timing, method of service and other procedural requirements in FINRA rules during the period in which FINRA's operations are impacted by the outbreak of COVID–19.[8] Among other

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] If FINRA seeks to provide additional temporary relief from the rule requirements identified in this proposed rule change beyond December 31, 2021, FINRA will submit a separate rule filing to further extend the temporary extension of time. The amended FINRA rules will revert to their original form at the conclusion of the temporary relief period and any extension thereof.

[5] *See* Securities Exchange Act Release No. 91495 (April 7, 2021), 86 FR 19306 (April 13, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2021–006).

[6] For example, President Joe Biden on July 29, 2021, announced several measures to increase the number of people vaccinated against COVID–19 and to slow the spread of the Delta variant, including strengthening safety protocols for federal government employees and contractors. *See https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/29/fact-sheet-president-biden-to-announce-new-actions-to-get-more-americans-vaccinated-and-slow-the-spread-of-the-delta-variant/.*

[7] For instance, the Centers for Disease Control and Prevention on July 27, 2021, began recommending that fully vaccinated people wear a mask in public indoor settings in areas of substantial or high transmission and noted that fully vaccinated people might choose to wear a mask regardless of the level of transmission, particularly if they are immunocompromised or at increased risk for severe disease from COVID–19. *See https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html.* Also, several cities, including Atlanta, Baltimore, Los Angeles, New Haven and San Francisco, have recently reinstated their mask mandates.

[8] *See* Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–015); Securities Exchange Act Release No. 89055 (June 12, 2020), 85 FR 36928 (June 18, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–017); Securities Exchange Act Release No. 89423 (July 29, 2020), 85 FR 47278 (August 4, 2020) (Notice of

Continued

things, the need for FINRA staff, with limited exceptions, to work remotely and restrict in-person activities—consistent with the recommendations of public health officials—have made it challenging to meet some procedural requirements and perform some functions required under FINRA rules. For example, working remotely makes it difficult to send and receive hard copy documents and conduct in-person oral arguments. The temporary amendments have addressed these concerns by easing logistical and other issues and providing FINRA with needed flexibility for its operations during the COVID–19 outbreak, allowing FINRA to continue critical adjudicatory and review processes in a reasonable and fair manner and meet its critical investor protection goals, while also following best practices with respect to the health and safety of its staff.

FINRA staff, with limited exceptions, continue to work remotely to protect their health and safety. As indicated in its previous filings, FINRA has established a COVID–19 task force to develop a data-driven, staged plan for FINRA staff to safely return to working in FINRA office locations and resume other in-person activities. Based on its assessment of current COVID–19 conditions, FINRA does not believe the COVID–19-related health concerns necessitating this relief will meaningfully subside by August 31, 2021, and therefore proposes to extend the expiration date of the temporary rule amendments originally set forth in SR–FINRA–2020–015 from August 31, 2021, to December 31, 2021.[9]

ii. SR–FINRA–2020–027

The same public health concerns and restrictions, along with a corresponding backlog of disciplinary cases,[10] led FINRA to file, and subsequently extend to August 31, 2021, SR–FINRA–2020–027 to temporarily amend FINRA Rules 1015, 9261, 9524, and 9830 to grant OHO and the NAC authority [11] to conduct hearings in connection with appeals of Membership Application Program decisions, disciplinary actions, eligibility proceedings and temporary and permanent cease and desist orders by video conference, if warranted by the COVID–19-related public health risks posed by an in-person hearing.[12]

As set forth in the previous filings, FINRA also relies on the guidance of its health and safety consultant, in conjunction with COVID–19 data and guidance issued by public health authorities, to determine whether the current public health risks presented by an in-person hearing may warrant a hearing by video conference.[13] Based on that guidance and data, FINRA does not believe the COVID–19-related health concerns necessitating this relief will meaningfully subside by August 31, 2021, and has determined that there will be a continued need for this temporary relief for several months beyond that date.[14] Accordingly, FINRA proposes to extend the expiration date of the temporary rule amendments originally set forth in SR–FINRA–2020–027 from August 31, 2021, to December 31, 2021.[15] The extension of these temporary amendments allowing for specified OHO and NAC hearings to proceed by video conference will allow FINRA's critical adjudicatory functions to continue to operate effectively in these extraordinary circumstances—enabling FINRA to fulfill its statutory obligations to protect investors and maintain fair and orderly markets—while also protecting the health and safety of hearing participants.[16]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[17] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is also consistent with Section 15A(b)(8) of the Act,[18] which requires, among other things, that FINRA rules provide a fair procedure for the disciplining of members and persons associated with members.

The proposed rule change, which extends the expiration date of the temporary amendments to FINRA rules set forth in SR–FINRA–2020–015, will continue to provide FINRA, and in some cases another party to a proceeding, temporary modifications to its procedural requirements in order to allow FINRA to maintain fair processes and protect investors while operating in a remote work environment and with corresponding restrictions on its activities. It is in the public interest, and consistent with the Act's purpose, for FINRA to operate pursuant to this temporary relief. The temporary amendments allow FINRA to specify filing and service methods, extend

Filing and Immediate Effectiveness of File No. SR–FINRA–2020–022); Securities Exchange Act Release No. 90619 (December 9, 2020), 85 FR 81250 (December 15, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–042); *supra* note 5.

[9] *See supra* note 8 (outlining the filing history of SR–FINRA–2020–015 and its prior extensions).

[10] For example, FINRA began temporarily postponing in-person hearings as a result of the COVID–19 impacts on March 16, 2020.

[11] For OHO hearings under FINRA Rules 9261 and 9830, the proposed rule change temporarily grants authority to the Chief or Deputy Chief Hearing Officer to order that a hearing be conducted by video conference. For NAC hearings under FINRA Rules 1015 and 9524, this temporary authority is granted to the NAC or the relevant Subcommittee.

[12] *See* Securities Exchange Act Release No. 89739 (September 2, 2020), 85 FR 55712 (September 9, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–027); Securities Exchange Act Release No. 90619 (December 9, 2020), 85 FR 81250 (December 15, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–042); *supra* note 5.

[13] As noted in SR–FINRA–2020–027, the temporary proposed rule change grants discretion to OHO and the NAC to order a video conference hearing. In deciding whether to schedule a hearing by video conference, OHO and the NAC may consider a variety of other factors in addition to COVID–19 trends. In SR–FINRA–2020–027, FINRA provided a non-exhaustive list of other factors OHO and the NAC may take into consideration, including a hearing participant's individual health concerns and access to the connectivity and technology necessary to participate in a video conference hearing.

[14] FINRA notes that the proposed extension of the temporary amendments does not mean a video conference hearing will be ordered in every case. FINRA strives to hold in-person hearings when it is safe to do so and had recently begun to hold such hearings at a single location. FINRA held its first in-person hearing since the temporary rule change was implemented in July 2021. A recent surge in case numbers for the Delta variant of the COVID–19 virus caused FINRA's outside health and safety consultant to recommend in early August against in-person hearings. Accordingly, the Chief Hearing Officer recently converted a hearing scheduled for mid-September from in-person to video conference. In addition to creating a safe environment in which an in-person hearing may be held, as mentioned above, a number of other considerations inform whether any given case will be held in-person or by video conference.

[15] *See supra* note 5.

[16] Since the temporary amendments were implemented, OHO and the NAC have conducted several hearings by video conference. As of July 21, 2021, OHO has conducted 10 disciplinary hearings by video conference (decisions have been issued in seven of these cases) and scheduled hearings in nine other disciplinary matters. The parties have agreed to proceed by video conference for one of the hearings. Also, as of July 21, 2021, the NAC, through the relevant Subcommittee, has conducted 11 oral arguments by video conference in connection with appeals of FINRA disciplinary proceedings pursuant to FINRA Rule 9341(d), as temporarily amended. Furthermore, the NAC has conducted via video conference a one-day evidentiary hearing in a membership application proceeding pursuant to FINRA Rule 1015, as temporarily amended.

[17] 15 U.S.C. 78*o*–3(b)(6).

[18] 15 U.S.C. 78*o*–3(b)(8).

certain time periods, and modify the format of oral argument for FINRA disciplinary and eligibility proceedings and other review processes to cope with the current pandemic conditions. In addition, extending this temporary relief will further support FINRA's disciplinary and eligibility proceedings and other review processes that serve a critical role in providing investor protection and maintaining fair and orderly markets.

The proposed rule change, which also extends the expiration date of the temporary amendments to FINRA rules set forth in SR–FINRA–2020–027, will continue to aid FINRA's efforts to timely conduct hearings in connection with its core adjudicatory functions. Given the current and frequently changing COVID–19 conditions and the uncertainty around when those conditions will see meaningful, widespread and sustained improvement, without this relief allowing OHO and NAC hearings to proceed by video conference, FINRA might be required to postpone some or almost all hearings indefinitely. FINRA must be able to perform its critical adjudicatory functions to fulfill its statutory obligations to protect investors and maintain fair and orderly markets. As such, this relief is essential to FINRA's ability to fulfill its statutory obligations and allows hearing participants to avoid the serious COVID–19-related health and safety risks associated with in-person hearings.

Among other things, this relief will allow OHO to conduct temporary cease and desist proceedings by video conference so that FINRA can take immediate action to stop ongoing customer harm and will allow the NAC to timely provide members, disqualified individuals and other applicants an approval or denial of their applications. As set forth in detail in the original filing, this temporary relief allowing OHO and NAC hearings to proceed by video conference accounts for fair process considerations and will continue to provide fair process while avoiding the COVID–19-related public health risks for hearing participants. Accordingly, the proposed rule change extending this temporary relief is in the public interest and consistent with the Act's purpose.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the temporary proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As set forth in SR–FINRA–2020–015 and SR–FINRA–2020–027, the proposed rule change is intended solely to extend temporary relief necessitated by the continued impacts of the COVID–19 outbreak and the related health and safety risks of conducting in-person activities. FINRA believes that the proposed rule change will prevent unnecessary impediments to FINRA's operations, including its critical adjudicatory processes, and its ability to fulfill its statutory obligations to protect investors and maintain fair and orderly markets that would otherwise result if the temporary amendments were to expire on August 31, 2021.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. As FINRA requested in connection with SR–FINRA–2020–015 and related extensions,[21] FINRA has also asked the Commission to waive the 30-day operative delay so that this proposed rule change may become operative immediately upon filing.

FINRA has indicated that extending the relief provided originally in SR–FINRA–2020–015 and SR–FINRA–2020–027 will continue to ease logistical and other issues by providing FINRA with needed flexibility for its operations during the COVID–19 outbreak. Importantly, extending the relief provided in these prior rule changes immediately upon filing and without a 30-day operative delay will allow FINRA to continue critical adjudicatory and review processes in a reasonable and fair manner and meet its critical investor protection goals, while also following best practices with respect to the health and safety of its employees.[22] The Commission also notes that this proposal, like SR–FINRA–2020–015 and SR–FINRA–2020–027, provides only temporary relief during the period in which FINRA's operations are impacted by COVID–19. As proposed, the changes would be in place through December 31, 2021.[23] FINRA also noted in both SR–FINRA–2020–015 and SR–FINRA–2020–027 that the amended rules will revert back to their original state at the conclusion of the temporary relief period and, if applicable, any extension thereof.[24] For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] *See* SR–FINRA–2020–015, 85 FR at 31836. Although FINRA did not request that the Commission waive the 30-day operative delay for SR–FINRA–2020–027, FINRA did request that the Commission waive the 30-day operative delay for SR–FINRA–2020–042 and FINRA–2021–006, which extended the expiration date of the temporary amendments originally set forth in SR–FINRA–2020–027.

[22] *See supra* Item II.A.1; *see also* SR–FINRA–2020–015, 85 FR at 31833.

[23] As noted above, *see supra* note 4, FINRA stated that if it requires temporary relief from the rule requirements identified in this proposal beyond December 31, 2021, it may submit a separate rule filing to extend the effectiveness of the temporary relief under these rules.

[24] *See* SR–FINRA–2020–015, 85 FR at 31833; *see also* SR–FINRA–2020–027, 85 FR at 55712.

[25] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–FINRA–2021–019 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2021–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2021–019 and should be submitted on or before September 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Jill Peterson,**

*Assistant Secretary.*

[FR Doc. 2021–17964 Filed 8–20–21; 8:45 am]

**BILLING CODE 8011–01–P**

[26] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92682; File No. SR–NSCC–2021–009]**

## Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change To Modify the Rules & Procedures of National Securities Clearing Corporation in Connection With the Implementation of Section 1446(f) of the Internal Revenue Code of 1986

August 17, 2021.

On July 14, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule change SR–NSCC–2021–009 to modify NSCC's Rules & Procedures (''Rules'') [3] in connection with the implementation of Section 1446(f) of the Internal Revenue Code of 1986.[4] The proposed rule change was published for comment in the **Federal Register** on July 23, 2021,[5] and the Commission received no comment letters regarding the changes proposed in the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

### I. Description of the Proposed Rule Change

*A. Background*

Section 1446(f) generally imposes a ten percent withholding tax on the payment of gross proceeds arising from the sale or other disposition by a non-U.S. person of an interest in a publicly traded partnership (''Section 1446(f) Withholding'') that is engaged in a U.S. trade or business.[6] A tax withholding obligation is imposed on the buyer of the partnership interest, who is required to remit the withheld tax amount to the U.S. Internal Revenue Service (''IRS''), unless or to the extent an applicable exception applies. The buyer obligated to withhold the ten percent tax is liable for any amount that it underwithheld, plus associated interest and penalties. Further, partnerships that are publicly traded on exchanges (''PTPs'') in respect of transfers that occur on or after January 1, 2022 will be subject to Section 1446(f) Withholding. The U.S. Treasury Department (''Treasury Department'') and the IRS implemented a tax withholding requirement pursuant to Treasury Regulation Section 1.1446(f)–4(a).[7]

Section 1.1446(f)–4(b) provides certain exceptions to 1.1446(f)–4(a). Under one of the exceptions, U.S. clearing organizations, which, under its definition, would include NSCC, are discharged from fulfilling Section 1446(f) Withholding at this time. The Treasury Department and the IRS provided this exception because they understood that there are no nonqualified intermediary Members that participate directly in the net settlement system at a U.S. clearing organization at the present time.[8]

NSCC represents that, all of NSCC's non-U.S. Members are currently of the types of entities permitted to perform the Section 1446(f) Withholding themselves either because (i) they are the types of entities allowed to perform U.S. tax withholdings pursuant to applicable Treasury Regulations, or (ii) they have entered into the requisite agreements with the IRS that allow them to perform U.S. tax withholdings (commonly known as the Qualified Intermediary Agreements).[9] NSCC further represents that nearly all such Members have historically accepted the responsibility to perform all U.S. tax withholdings in respect of their NSCC accounts, and it is NSCC's understanding that they would continue do the same for Section 1446(f) Withholding.[10]

*B. Proposed Rule Changes*

NSCC proposes to amend its Rules to ensure that all NSCC's FFI Members [11] that are Members would accept the responsibility to perform the Section 1446(f) Withholding.[12]

First, NSCC proposes to add new definitions: Section 1446(f), Section 1446(f) Withholding, Section 1446(f)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not defined herein are defined in the Rules, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[4] 26 U.S.C. 1446(f).

[5] Securities Exchange Act Release No. 92437 (July 19, 2021), 86 FR 39092 (July 23, 2021) (''Notice of Filing'').

[6] 26 U.S.C. 1446(f)(1); Withholding of Tax and Information Reporting With Respect to Interests in Partnerships Engaged in a U.S. Trade or Business, 85 FR 76910 (Nov. 30, 2020) (''Final Regulations'').

[7] *Id.;* 26 CFR 1.1446(f)–4(a).

[8] Final Regulations, *supra* note 6, at 76922.

[9] Notice of Filing, *supra* note 5, at 39093.

[10] *Id.*

[11] The term ''FFI Member'' means any Member or Limited Member that is treated as a non-U.S. entity for U.S. federal income tax purposes. *See* Rules, *supra* note 3.

[12] NSCC states that, based on the types of services that NSCC provides to Limited Members, notwithstanding any exception, NSCC would not need to perform Section 1446(f) Withholding with respect to Limited Members' activities at NSCC. Notice of Filing, *supra* note 5, at 39093.

Withholding Agent, Section 1446(f) Withholding Compliance Date, and Tax Certification.[13] Second, NSCC proposes to revise the FATCA compliance rule to add that, generally, each FFI Member that is a Member must agree not to conduct any transaction or activity through NSCC if such FFI Member is not a Section 1446(f) Withholding Agent.[14] Third, NSCC proposes to require FFI Members to be Section 1446(f) Withholding Agents and to notify NSCC when they have reason to know that they are not, or will not be, Section 1446(f) Withholding Agents.[15] Fourth, NSCC proposes to require a Member who is a non-U.S. entity and is not a Section 1446(f) Withholding Agent to not transact through NSCC, and a Member who is a non-U.S. entity to provide Tax Certification to certify that it is FATCA Compliant or a Section 1446(f) Withholding Agent.[16] Fifth, NSCC proposes to make certain other technical changes to its Rules.[17]

## II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [18] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After carefully considering the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act. In particular, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[19]

### *A. Consistency With Section 17A(b)(3)(F)*

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as NSCC, be designed to promote the prompt and accurate clearance and settlement of securities transactions.[20]

As described above, Section 1446(f) provides NSCC an exception from the obligation to perform Section 1446(f) Withholding at this time. However, if a direct clearing member of a U.S. clearing organization is not a type of entity permitted to perform Section 1446(f) Withholding, the Treasury Department and the IRS will issue proposed guidance that would remove the current exception to require Section 1446(f) Withholding by U.S. clearing organizations, such as NSCC, on that direct clearing member.[21] If the Treasury Department and the IRS were to revise Section 1446(f) and revoke NSCC's exception, NSCC would be required to clear and settle each transfer of PTP interest on a gross basis in order to perform Section 1446(f) Withholding on such transfer. Given that NSCC currently clears and settles all transactions on a netted basis, NSCC represents that any obligation imposed on NSCC to clear and settle transfers of PTP interest on a gross basis may be disruptive to the efficiency and liquidity of the trading of PTP interests in the capital markets.[22]

NSCC is proposing that, unless waived by NSCC, beginning on the Section 1446(f) Withholding Compliance Date, each FFI Member that is a Member would be required to agree not to conduct any transaction or activity through NSCC if such FFI Member is not a Section 1446(f) Withholding Agent. In addition, each FFI Member that is a Member would be required to provide periodic certifications to NSCC regarding its Section 1446(f) Withholding Agent status. Taken together, these membership requirements would help to ensure that all NSCC FFI Members that are Members would accept their responsibility to perform the Section 1446(f) Withholding and to be a Section 1446(f) Withholding Agent.

By ensuring that all NSCC FFI Members that are Members would accept their responsibility to perform the Section 1446(f) Withholding, the Commission believes the current exception for NSCC with respect to Section 1446(f) would continue to operate as intended. Therefore, NSCC would be able to continue to clear and settle all transactions (including transfers of PTP interest) on a netted basis and avoid any potential disruption to the efficiency and liquidity of the trading of PTP interests in the capital market. By avoiding any potential disruption to the efficiency and liquidity of the trading of PTP interest in the capital market, the Commission believes that the proposal would help to promote the prompt and accurate clearance and settlement of transactions, consistent with Section 17A(b)(3)(F) of the Act.[23]

The Commission believes the proposal to make technical changes to the Rules is also consistent with Section 17A(b)(3)(F) of the Act. The proposed technical changes to the Rules would help ensure that the Rules remain accurate and clear to Members. Having accurate and clear Rules would help Members to better understand their rights and obligations regarding NSCC's clearance and settlement services. The Commission believes that when Members better understand their rights and obligations regarding NSCC's clearance and settlement services, they can act in accordance with the Rules. The Commission believes that better enabling Members to comply with the Rules would promote prompt and accurate clearance and settlement of transactions, consistent with Section 17A(b)(3)(F) of the Act.[24]

## III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [25] and the rules and regulations promulgated thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act [26] that proposed rule change SR–NSCC–2021–009, be, and hereby is, APPROVED.[27]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021–17963 Filed 8–20–21; 8:45 am]

**BILLING CODE 8011–01–P**

[13] Notice of Filing, *supra* note 5, at 39093.

[14] The term ''Section 1446(f) Withholding Agent'' would mean an FFI Member that is a Member and has certified to NSCC that Section 1446(f) Withholding would not apply to any Gross Credit Balance of such FFI Member by providing to NSCC a Tax Certification (as defined below and in the proposed rule text). *Id.*

[15] *Id.*

[16] Notice of Filing, *supra* note 5, at 39094.

[17] Notice of Filing, *supra* note 5, at 39093–94.

[18] 15 U.S.C. 78s(b)(2)(C).

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] *Id.*

[21] Final Regulations, *supra* note 6, at 76922.

[22] Notice of Filing, *supra* note 5, at 39094.

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] *Id.*

[25] 15 U.S.C. 78q–1.

[26] 15 U.S.C. 78s(b)(2).

[27] In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92690; File No. SR–OCC–2021–008]**

## Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Changes to the By-Laws and Rules of the Options Clearing Corporation

August 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2021, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)[3] of the Act and Rule 19b–4(f)(1)[4] and (f)(4)[5] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would amend OCC's By-Laws and Rules to (i) correct typographical errors, (ii) make conforming changes intended by prior proposed rule change filings, (iii) correct erroneous cross-references, and (iv) remove certain inoperative provisions and clarifying certain other provisions related to OCC's Clearing Member Trade Assignment (''CMTA'') process. Amendments to OCC's By-Laws and Rules are included in Exhibit 5 of filing SR–OCC–2021–008. Material proposed to be added is marked by underlining, and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the By-Laws and Rules.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(1).

[5] 17 CFR 240.19b–4(f)(4).

[6] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(1) Purpose

OCC is proposing to amend its By-Laws and Rules to (1) correct typographical errors, (2) make conforming changes intended by prior proposed rule change filings, (3) correct erroneous cross-references and (4) remove certain inoperative provisions and clarifying certain other provisions related to OCC's CMTA process.

1. Typographical Error Correction

First, OCC has identified several typographical errors in the text of the proposed rule change as submitted to the SEC:

- The definition of ''Clearing Member'' in Article I of the By-Laws would be amended to reflect that the plural of the defined term ''BOUND'' is ''BOUNDs,'' not ''BOUNDS.'' The same change would be made to Rule 401(a)(3).
- The definition of ''Equity Exchange'' in Article I of the By-Laws would be amended to correct a reference to ''Section VIIA'' of the By-Laws. There is no ''Section VIIA'' of the By-Laws; the references should be to ''Article VIIA.''
- The definition of ''Hedge Clearing Member'' in Article I of the By-Laws would be amended to replace a reference to ''Stock Clearing Member,'' which is not a term defined by the By-Laws or Rules, with ''Clearing Member.''
- Article IV, Section 3 of the By-Laws would be amended to re-insert a comma within a series in the second sentence that was inadvertently removed.
- Article IX, Section 5 of the By-Laws would be amended to employ more standard American spelling of ''depositories.''
- Article XXI, Section 2(a)(2) of the By-Laws would be amended to correct capitalization of the word ''accordance.''
- Interpretations and Policies to Rule 1309 and Rule 1405 would be renumbered to conform to the standard numbering convention for such Interpretations and Policies.
- Rule 1403(a) would be amended to correct the verb tense in the second clause.
- Interpretation and Policy .01 to Rule 2210A would be amended to correct a typographical error in the possessive of ''Clearing Member.''

2. Conforming Changes

Second, OCC has identified instances in which the changes OCC intended to make in prior rule change filings were not applied to all affected provisions. This proposed rule change would apply conforming changes to OCC's By-Laws and Rules reflecting the intended changes to the affected provisions:

- Article VI, Section 3(d) of the By-Laws would be deleted. The provision allows for Clearing Members to establish and maintain Pledge Accounts to the extent permitted by OCC's Rules—Rules which OCC eliminated in 2012 when it terminated the Pledge Program.[7] Because OCC's Rules no longer permit Pledge Accounts, Section 3(d) of By-Law Article VI is now inoperative and can be eliminated.
- Article XXVI, Section 1 of the By-Laws would be amended by deleting the definition of ''index group.'' That defined term was previously deleted from Article XVII because it was not used elsewhere in that Article.[8] Likewise, the term is not used elsewhere in Article XXVI. In addition, the definition of ''index multiplier'' would be amended to reflect that the referenced definition is found in Article I, not Article XVII as currently indicated.
- Rule 504(c) would be amended to use the term ''non-guaranteed settlement,'' rather than ''money-only settlement.'' Paragraph (c) was inadvertently excluded from a prior rule change filing that applied the same change to other paragraphs of that Rule.[9] Consequently, OCC would also renumber paragraphs (d) through (g), as they appeared in that filing, as paragraphs (e) through (h).
- Interpretation and Policy .14 to Rule 604 would be amended to reflect the deletion of a former provision under Rule 604(b)(4). Rule 604(b)(4) limited the amount of margin credit of any single issue to 10% of the margin

[7] *See* Securities Exchange Act Release (''Exchange Act Release'') No. 67706 (Aug. 22, 2012), 77 FR 52082 (Aug. 28, 2012) (File No. SR–OCC–2012–10).

[8] *See* Exchange Act Release No. 58352 (Aug. 13, 2008), 73 FR 48421, 48422 (Aug. 19, 2008) (File No. SR–OCC–2008–17).

[9] *See* Exchange Act Release No. 63120 (Oct. 15, 2010), 75 FR 65538 (Oct. 25, 2010) (File No. SR–OCC–2010–17).

deposited by Clearing Members. OCC intended to remove that limitation when it eliminated preferred stock as a form of margin asset.[10] Consequently, the Interpretation and Policy's application of that now defunct provision to sub-accounts is no longer relevant.

• Rule 705 would be amended to reflect that interests or gains received or accrued on the investment of margins deposited in respect of cross margin accounts shall belong to the Corporation *or* the Participating CCO(s) (rather than ''and'') as may be determined by mutual agreement between the parties, consistent with unmarked changes in the text as filed in connection with a prior proposed rule change.[11]

• Interpretation and Policy .02 to Rule 1106 would be renumbered as .01, consistent with the deletion of the immediately Interpretation and Policy by a previous proposed rule change.[12]

• Rule 2205 would be amended to reflect that OCC shall ''make available,'' rather than ''issue,'' information concerning stock loan positions and stock borrow positions resulting from Stock Loans, consistent with unmarked changes in the text as filed in connection with prior proposed rule changes.[13]

3. Correcting Erroneous Cross-References

Third, OCC has identified erroneous cross-references to provisions that have been renumbered by prior rule changes. This proposed rule change would correct these erroneous cross-references.[14] In the case of erroneous cross-references to definitions found in Article I of the By-Laws or Rule 101, OCC is proposing to replace citations to numbered paragraphs with references to the defined term. OCC believes citations to numbered paragraphs are unnecessary for definition sections that are alphabetized,[15] and referring to the definitions by term rather than number will help avoid the need to update cross-references whenever the definition sections are amended.

4. Amendments to CMTA Processes

Finally, OCC is proposing to remove references to certain identifiers related to the Clearing Member Trade Assignment (''CMTA'') process that were never implemented. Specifically, the provisions related to the Customer CMTA Indicator, CMTA Customer Identifier, and IB Identifier in Article I of the By-Laws, Rule 401, and Rule 407 contemplated that participant exchanges would adopt rules to implement them, which did not occur.[16] OCC proposes to remove the changes applied when it added the capacity for those identifiers.[17]

OCC would also clarify Rule 407(b) to address situations where the account designated by the Carrying Clearing Member to receive confirmed trades is not approved to hold a specific confirmed trade. Rule 407(b) does not provide for what happens in this event. In such cases, it is OCC's practice to default to the Carrying Clearing Member's customer or segregated futures account, as applicable, or, if the Carrying Clearing Member does not maintain such an account, to the Carrying Clearing Member's firm account. In addition, OCC would delete the last sentence of Rule 407(b), which provides for default accounts if an Executing Clearing Member failed to designate a default account for failed transactions. Executing Clearing Members are required to make a designation prior to engaging in transactions, so the situation this provision is intended to address could not occur. Therefore, this last sentence is unnecessary and can be eliminated. OCC believes that these proposed changes help to clarify OCC's Rules with respect to default accounts and reflect OCC's current practice.

(2) Statutory Basis

OCC believes the proposed rule changes are consistent with Section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') and the rules and regulations thereunder. Section 17A(b)(3)(F)[18] of the Exchange Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and protect investors and the public interest. By correcting typographical errors, omissions and erroneous cross-references in OCC's By-Laws and Rules, as well as removing inoperative provisions, the proposed rule changes facilitate the administration of existing rules intended to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and protect investors and the public interest.

In addition, Rule 17Ad–22(e)(1) requires OCC to, among other things, maintain written policies and procedures reasonably designed to, among other things, ensure a well-founded, clear, transparent, and enforceable legal basis for each aspect of OCC's activities.[19] By correcting errors and omissions in the text as filed with the SEC and removing inoperative provisions, the changes discussed above are intended to support the maintenance of OCC's By-Laws and Rules and improve their clarity and transparency. The proposed rule change is not inconsistent with any existing rules of OCC, including any other rules proposed to be amended.

*(B) Clearing Agency's Statement on Burden on Competition*

Section 17A(b)(3)(I) of the Exchange Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[20] As discussed above, the proposed changes would correct typographical errors, omissions and erroneous cross-references and remove certain

[10] *See* Exchange Act Release No. 72206 (May 21, 2014), 79 FR 30674, 30675 (May 28, 2014) (File No. SR–OCC–2014–07). As OCC explained, the limitation on margin credit was no longer necessary after eliminating preferred stock as an acceptable form of margin asset because additional charges for concentration positions are already determined under OCC's System for Theoretical Analysis and Numerical Simulations (''STANS'').

[11] *See* Exchange Act Release No. 58258 (July 30, 2008), 73 FR 46133 (Aug. 7, 2008) (File No. SR–OCC–2008–12.

[12] *See* Exchange Act Release No. 67835 (Sept. 12, 2012), 77 FR 57602 (Sept. 18, 2012) (File No. SR–OCC–2012–14).

[13] *See* Exchange Act Release No. 80171 (Mar. 8, 2017), 82 FR 13690 (Mar. 14, 2017) (File No. SR–OCC–2017–004); Exchange Act Release No. 59294 (Jan. 23, 2009), 74 FR 5958 (Feb. 3, 2009) (File No. SR–OCC–2008–20).

[14] Specifically, OCC would update the cross-references in the bracketed parentheticals that identify By-Laws or Rules supplemented or replaced by Article XII, Section 4A; Article XIII, Sections 1 and 3; Article XV, Section 1; Article XVI, Section 1; and Article XVII, Section 1 of the By-Laws and Rules 1401, 1402, 1403, 1404, 1503, 1703, 1704, 1805, and 2704. OCC would also amend erroneous cross-references in Rules 101, 304(a), 309(f), and 803 and Article XV, Section 1 of the By-Laws. The rationale for these amendments and the identification of the intervening rule filings that renumbered the referenced provisions is included in Exhibit 3 to File No. SR–OCC–2021–008.

Notwithstanding the amendments to Article XV, that Article remains inoperative until further notice by OCC. *See* Exchange Act Release No. 58977 (Nov. 19, 2008), 73 FR 72097, 72098 (Nov. 26, 2008) (File No. SR–OCC–2008–09).

[15] The practice of referring to definition sections by number dates to OCC's original practice of adding new definitions sequentially to the end of the definition sections, which OCC ceased when it alphabetized the definition sections. *See* Exchange Act Release No. 30327 (Jan. 31, 1992), 57 FR 4785–01 (Feb. 7, 1992) (File No. SR–OCC–92–4).

[16] *See* OCC Rule 401(a) (''Such confirmed trade information shall also include a Customer CMTA Indicator, a CMTA Customer Identifier, and an IB Identifier *to the extent required under applicable Exchange rules*.'').

[17] *See* Exchange Act Release No. 51350 (Mar. 9, 2005), 70 FR 12934 (Mar. 16, 2005) (File No. SR–OCC–2004–19).

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17Ad–22(e)(1).

[20] 15 U.S.C. 78q–1(b)(3)(I).

inoperative provisions. These proposed changes are technical in nature and would not impact the rights or obligations of Clearing Members or other participants in a way that would benefit or disadvantage any participant versus another participant. Accordingly, OCC does not believe that the proposed corrections to its By-Laws and Rules have any impact, or impose any burden, on competition.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Pursuant to Section 19(b)(3)(A)(ii)[21] of the Act, and Rule 19b–4(f)(1)[22] and (f)(4)[23] thereunder, the proposed rule change is filed for immediate effectiveness. 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. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[24]

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2021–008 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2021–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2021–008 and should be submitted on or before September 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021–17966 Filed 8–20–21; 8:45 am]

**BILLING CODE 8011–01–P**

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 240.19b–4(f)(1).

[23] 17 CFR 240.19b–4(f)(4).

[24] Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under Commodity Futures Trading Commission Regulation 40.6.

[25] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Thursday, August 26, 2021.

**PLACE:** The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:** For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: August 19, 2021.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2021–18218 Filed 8–19–21; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92689; File No. SR–CboeBZX–2021–052]**

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the Global X Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

August 17, 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 August 3, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to list and trade shares of the Global X Bitcoin Trust (the ''Trust''),[3] under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares.

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 list and trade the Shares under BZX Rule 14.11(e)(4),[4] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[5] Global X Digital Assets, LLC is the sponsor of the Trust (the ''Sponsor''). The Shares will be registered with the Commission by means of the Trust's registration statement on Form S–1 (the ''Registration Statement'').[6]

Background

Bitcoin is a digital asset based on the decentralized, open source protocol of the peer-to-peer computer network launched in 2009 that governs the creation, movement, and ownership of bitcoin and hosts the public ledger, or ''blockchain,'' on which all bitcoin transactions are recorded (the ''Bitcoin Network'' or ''Bitcoin''). The decentralized nature of the Bitcoin Network allows parties to transact directly with one another based on cryptographic proof instead of relying on a trusted third party. The protocol also lays out the rate of issuance of new bitcoin within the Bitcoin Network, a rate that is reduced by half approximately every four years with an eventual hard cap of 21 million. It's generally understood that the combination of these two features—a systemic hard cap of 21 million bitcoin and the ability to transact trustlessly (*i.e.,* without a trusted intermediary) with anyone connected to the Bitcoin Network—gives bitcoin its value.[7] The first rule filing proposing to list an exchange-traded product to provide exposure to bitcoin in the U.S. was submitted by the Exchange on June 30, 2016.[8] At that time, blockchain technology, and digital assets that utilized it, were relatively new to the broader public. The market cap of all bitcoin in existence at that time was approximately $10 billion. No registered offering of digital asset securities or shares in an investment vehicle with exposure to bitcoin or any other cryptocurrency had yet been conducted, and the regulated infrastructure for conducting a digital asset securities offering had not begun to develop.[9] Similarly, regulated U.S. bitcoin futures contracts did not exist. The Commodity Futures Trading Commission (the ''CFTC'') had determined that bitcoin is a commodity,[10] but had not engaged in significant enforcement actions in the space. The New York Department of Financial Services (''NYDFS'') adopted its final BitLicense regulatory framework in 2015, but had only approved four entities to engage in activities relating to virtual currencies (whether through granting a BitLicense or a limited-purpose trust charter) as of June 30, 2016.[11] While the first over-the-counter bitcoin fund launched in 2013, public trading was limited and the fund had only $60 million in assets.[12] There were very few, if any, traditional financial institutions engaged in the space, whether through investment or providing services to digital asset companies. In January 2018, the Staff of the Commission noted in a letter to the Investment Company Institute and SIFMA that it was not aware, at that time, of a single custodian providing fund custodial services for digital assets.[13] Fast forward to the first quarter

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Trust was formed as a Delaware statutory trust on July 13, 2021 and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

[4] The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

[6] *See* Registration Statement on Form S–1, dated July 21, 2021 submitted to the Commission by the Sponsor on behalf of the Trust. The descriptions of the Trust, the Shares, and the Trust's methodology for calculating net asset value contained herein are based, in part, on information in the Registration Statement. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[7] For additional information about bitcoin and the Bitcoin Network, *see https://bitcoin.org/en/getting-started; https://www.fidelitydigitalassets.com/articles/addressing-bitcoin-criticisms;* and *https://www.vaneck.com/education/investment-ideas/investing-in-bitcoin-and-digital-assets/.*

[8] *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018). This proposal was subsequently disapproved by the Commission. *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the ''Winklevoss Order'').

[9] Digital assets that are securities under U.S. law are referred to throughout this proposal as ''digital asset securities.'' All other digital assets, including bitcoin, are referred to interchangeably as ''cryptocurrencies'' or ''virtual currencies.'' The term ''digital assets'' refers to all digital assets, including both digital asset securities and cryptocurrencies, together.

[10] *See* ''In the Matter of Coinflip, Inc.'' (''Coinflip'') (CFTC Docket 15–29 (September 17, 2015)) (order instituting proceedings pursuant to Sections 6(c) and 6(d) of the CEA, making findings and imposing remedial sanctions), in which the CFTC stated:

''Section 1a(9) of the CEA defines 'commodity' to include, among other things, 'all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.' 7 U.S.C. 1a(9). The definition of a 'commodity' is broad. *See, e.g., Board of Trade of City of Chicago* v. *SEC*, 677 F. 2d 1137, 1142 (7th Cir. 1982). Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities.''

[11] A list of virtual currency businesses that are entities regulated by the NYDFS is available on the NYDFS website. *See https://www.dfs.ny.gov/apps_and_licensing/virtual_currency_businesses/regulated_entities.*

[12] Data as of March 31, 2016 according to publicly available filings. *See* Bitcoin Investment Trust Form S–1, dated May 27, 2016, available: *https://www.sec.gov/Archives/edgar/data/1588489/000095012316017801/filename1.htm.*

[13] *See* letter from Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission to Paul Schott Stevens,

Continued

of 2021 and the digital assets financial ecosystem, including bitcoin, has progressed significantly. The development of a regulated market for digital asset securities has significantly evolved, with market participants having conducted registered public offerings of both digital asset securities [14] and shares in investment vehicles holding bitcoin futures.[15] Additionally, licensed and regulated service providers have emerged to provide fund custodial services for digital assets, among other services. For example, in December 2020, the Commission adopted a conditional no-action position permitting certain special purpose broker-dealers to custody digital asset securities under Rule 15c3–3 under the Exchange Act; [16] in September 2020, the Staff of the Commission released a no-action letter permitting certain broker-dealers to operate a non-custodial Alternative Trading System (''ATS'') for digital asset securities, subject to specified conditions; [17] and in October 2019, the Staff of the Commission granted temporary relief from the clearing agency registration requirement to an entity seeking to establish a securities clearance and settlement system based on distributed ledger technology,[18] and multiple transfer agents who provide services for digital asset securities registered with the Commission.[19]

Outside the Commission's purview, the regulatory landscape has changed significantly since 2016, and cryptocurrency markets have grown and evolved as well. The market for bitcoin is approximately 100 times larger, having recently reached a market cap of over $1 trillion, although as of July 19, 2021, it is closer to $580 billion. CFTC regulated bitcoin futures represented approximately $28 billion in notional trading volume on Chicago Mercantile Exchange (''CME'') (''Bitcoin Futures'') in December 2020 compared to $737 million, $1.4 billion, and $3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over $1.2 billion per day in December 2020 and represented $1.6 billion in open interest compared to $115 million in December 2019, which the Exchange believes represents a regulated market of significant size, as further discussed below.[20] The CFTC has exercised its regulatory jurisdiction in bringing a number of enforcement actions related to bitcoin and against trading platforms that offer cryptocurrency trading.[21] The U.S. Office of the Comptroller of the Currency (the ''OCC'') has made clear that federally-chartered banks are able to provide custody services for cryptocurrencies and other digital assets.[22] The OCC recently granted conditional approval of two charter conversions by state-chartered trust companies to national banks, both of which provide cryptocurrency custody services.[23] NYDFS has granted no fewer than twenty-five BitLicenses, including to established public payment companies like PayPal Holdings, Inc. and Square, Inc., and limited purpose trust charters to entities providing cryptocurrency custody services, including the Trust's Custodian. The U.S. Treasury Financial Crimes Enforcement Network (''FinCEN'') has released extensive guidance regarding the applicability of the Bank Secrecy Act (''BSA'') and implementing regulations to virtual currency businesses,[24] and has proposed rules imposing requirements on entities subject to the BSA that are specific to the technological context of virtual currencies.[25] In addition, the Treasury's Office of Foreign Assets Control (''OFAC'') has brought enforcement actions over apparent violations of the sanctions laws in connection with the provision of wallet management services for digital assets.[26]

In addition to the regulatory developments laid out above, more traditional financial market participants appear to be embracing cryptocurrency: large insurance companies,[27] asset managers,[28] university endowments,[29]

President & CEO, Investment Company Institute and Timothy W. Cameron, Asset Management Group—Head, Securities Industry and Financial Markets Association (January 18, 2018), *available at https://www.sec.gov/divisions/investment/noaction/2018/cryptocurrency-011818.htm.*

[14] *See* Prospectus supplement filed pursuant to Rule 424(b)(1) for INX Tokens (Registration No. 333–233363), *available at: https://www.sec.gov/Archives/edgar/data/1725882/000121390020023202/ea125858-424b1_inxlimited.htm.*

[15] *See* Prospectus filed by Stone Ridge Trust VI on behalf of NYDIG Bitcoin Strategy Fund Registration, *available at: https://www.sec.gov/Archives/edgar/data/1764894/000119312519309942/d693146d497.htm.*

[16] *See* Securities Exchange Act Release No. 90788, 86 FR 11627 (February 26, 2021) (File Number S7–25–20) (Custody of Digital Asset Securities by Special Purpose Broker-Dealers).

[17] *See* letter from Elizabeth Baird, Deputy Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, Financial Industry Regulatory Authority (September 25, 2020), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2020/finra-ats-role-in-settlement-of-digital-asset-security-trades-09252020.pdf.*

[18] *See* letter from Jeffrey S. Mooney, Associate Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Charles G. Cascarilla & Daniel M. Burstein, Paxos Trust Company, LLC (October 28, 2019), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2019/paxos-trust-company-102819-17a.pdf.*

[19] *See, e.g.,* Form TA–1/A filed by Tokensoft Transfer Agent LLC (CIK: 0001794142) on January 8, 2021, *available at: https://www.sec.gov/Archives/edgar/data/1794142/000179414219000001/xslFTA1X01/primary_doc.xml.*

[20] All statistics and charts included in this proposal are sourced from *https://www.cmegroup.com/trading/bitcoin-futures.html.*

[21] The CFTC's annual report for Fiscal Year 2020 (which ended on September 30, 2020) noted that the CFTC ''continued to aggressively prosecute misconduct involving digital assets that fit within the CEA's definition of commodity'' and ''brought a record setting seven cases involving digital assets.'' *See* CFTC FY2020 Division of Enforcement Annual Report, *available at: https://www.cftc.gov/media/5321/DOE_FY2020_AnnualReport_120120/download.* Additionally, the CFTC filed on October 1, 2020, a civil enforcement action against the owner/operators of the BitMEX trading platform, which was one of the largest bitcoin derivative exchanges. *See* CFTC Release No. 8270–20 (October 1, 2020) *available at: https://www.cftc.gov/PressRoom/PressReleases/8270-20.*

[22] *See* OCC News Release 2021–2 (January 4, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2.html.*

[23] *See* OCC News Release 2021–6 (January 13, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-6.html* and OCC News Release 2021–19 (February 5, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-19.html.*

[24] *See* FinCEN Guidance FIN–2019–G001 (May 9, 2019) (Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies) *available at: https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf.*

[25] *See* U.S. Department of the Treasury Press Release: ''The Financial Crimes Enforcement Network Proposes Rule Aimed at Closing Anti-Money Laundering Regulatory Gaps for Certain Convertible Virtual Currency and Digital Asset Transactions'' (December 18, 2020), *available at: https://home.treasury.gov/news/press-releases/sm1216.*

[26] *See* U.S. Department of the Treasury Enforcement Release: ''OFAC Enters Into $98,830 Settlement with BitGo, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions'' (December 30, 2020) *available at: https://home.treasury.gov/system/files/126/20201230_bitgo.pdf.*

[27] On December 10, 2020, Massachusetts Mutual Life Insurance Company (MassMutual) announced that it had purchased $100 million in bitcoin for its general investment account. *See* MassMutual Press Release ''Institutional Bitcoin provider NYDIG announces minority stake purchase by MassMutual'' (December 10, 2020) *available at: https://www.massmutual.com/about-us/news-and-press-releases/press-releases/2020/12/institutional-bitcoin-provider-nydig-announces-minority-stake-purchase-by-massmutual.*

[28] *See e.g.,* ''BlackRock's Rick Rieder says the world's largest asset manager has 'started to dabble' in bitcoin'' (February 17, 2021) *available at: https://www.cnbc.com/2021/02/17/blackrock-has-started-to-dabble-in-bitcoin-says-rick-rieder.html* and ''Guggenheim's Scott Minerd Says Bitcoin Should Be Worth $400,000'' (December 16, 2020) *available at: https://www.bloomberg.com/news/articles/2020-12-16/guggenheim-s-scott-minerd-says-bitcoin-should-be-worth-400-000.*

[29] *See e.g.,* ''Harvard and Yale Endowments Among Those Reportedly Buying Crypto'' (January

pension funds,[30] and even historically bitcoin skeptical fund managers [31] are allocating to bitcoin. The largest over-the-counter bitcoin fund previously filed a Form 10 registration statement, which the Staff of the Commission reviewed and which took effect automatically, and is now a reporting company.[32] Established companies like Tesla, Inc.,[33] MicroStrategy Incorporated,[34] and Square, Inc.,[35] among others, have recently announced substantial investments in bitcoin in amounts as large as $1.5 billion (Tesla) and $425 million (MicroStrategy). Suffice to say, bitcoin is on its way to gaining mainstream usage.

Despite these developments, access for U.S. retail investors to gain exposure to bitcoin via a transparent and regulated exchange-traded vehicle remains limited. As investors and advisors increasingly utilize ETPs to manage diversified portfolios (including equities, fixed income securities, commodities, and currencies) quickly, easily, relatively inexpensively, and without having to hold directly any of the underlying assets, options for bitcoin exposure for U.S. investors remain limited to: (i) Investing in over-the-counter bitcoin funds (''OTC Bitcoin Funds'') that are subject to high premium/discount volatility (and high management fees) to the advantage of more sophisticated investors that are able to create and redeem shares at net asset value (''NAV'') directly with the issuing trust; (ii) facing the technical risk, complexity and generally high fees associated with buying spot bitcoin; or (iii) purchasing shares of operating companies that they believe will provide proxy exposure to bitcoin with limited disclosure about the associated risks. Meanwhile, investors in many other countries, including Canada,[36] are able to use more traditional exchange listed and traded products to gain exposure to bitcoin, disadvantaging U.S. investors and leaving them with riskier and more expensive means of getting bitcoin exposure.[37]

OTC Bitcoin Funds and Investor Protection

Over the past year, U.S. investor exposure to bitcoin through OTC Bitcoin Funds has grown into the tens of billions of dollars. With that growth, so too has grown the potential risk to U.S. investors. As described below, premium and discount volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a bitcoin ETP. The Exchange understands the Commission's previous focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that such concerns have been sufficiently mitigated and that the growing and quantifiable investor protection concerns should be the central consideration as the Commission reviews this proposal. As such, the Exchange believes that approving this proposal (and comparable proposals submitted hereafter) provides the Commission with the opportunity to allow U.S. investors with access to bitcoin in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) Reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure; and (iv) providing an alternative to custodying spot bitcoin.

(i) OTC Bitcoin Funds and Premium/Discount Volatility

OTC Bitcoin Funds are generally designed to provide exposure to bitcoin in a manner similar to the Shares. However, unlike the Shares, OTC Bitcoin Funds are unable to freely offer creation and redemption in a way that incentivizes market participants to keep their shares trading in line with their NAV [38] and, as such, frequently trade at a price that is out of line with the value of their assets held. Historically, OTC Bitcoin Funds have traded at a significant premium to NAV.[39]

Trading at a premium or a discount is not unique to OTC Bitcoin Funds and is not in itself problematic, but the size of such premiums/discounts and volatility thereof highlight the key differences in operations and market structure of OTC Bitcoin Funds as compared to ETPs. This, combined with the significant increase in AUM for OTC Bitcoin Funds over the past year, has given rise to significant and quantifiable investor protection issues, as further described below. In fact, the largest OTC Bitcoin Fund has grown to $38.3 billion in AUM [40] and has historically traded at a

25, 2021) *available at: https://www.bloomberg.com/news/articles/2021-01-26/harvard-and-yale-endowments-among-those-reportedly-buying-crypto.*

[30] *See e.g.,* ''Virginia Police Department Reveals Why its Pension Fund is Betting on Bitcoin'' (February 14, 2019) *available at: https://finance.yahoo.com/news/virginia-police-department-reveals-why-194558505.html.*

[31] *See e.g.,* ''Bridgewater: Our Thoughts on Bitcoin'' (January 28, 2021) *available at: https://www.bridgewater.com/research-and-insights/our-thoughts-on-bitcoin* and ''Paul Tudor Jones says he likes bitcoin even more now, rally still in the 'first inning' '' (October 22, 2020) *available at: https://www.cnbc.com/2020/10/22/-paul-tudor-jones-says-he-likes-bitcoin-even-more-now-rally-still-in-the-first-inning.html.*

[32] *See* Letter from Division of Corporation Finance, Office of Real Estate & Construction to Barry E. Silbert, Chief Executive Officer, Grayscale Bitcoin Trust (January 31, 2020) *https://www.sec.gov/Archives/edgar/data/1588489/000000000020000953/filename1.pdf.*

[33] *See* Form 10–K submitted by Tesla, Inc. for the fiscal year ended December 31, 2020 at 23: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

[34] *See* Form 10–Q submitted by MicroStrategy Incorporated for the quarterly period ended September 30, 2020 at 8: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1050446/000156459020047995/mstr-10q_20200930.htm.*

[35] *See* Form 10–Q submitted by Square, Inc. for the quarterly period ended September 30, 2020 at 51: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1512673/000151267320000012/sq-20200930.htm.*

[36] The Exchange notes that the Purpose Bitcoin ETF, a retail physical bitcoin ETP recently launched in Canada, reportedly reached $421.8 million in assets under management (''AUM'') in two days, demonstrating the demand for a North American market listed bitcoin exchange-traded product (''ETP''). The Purpose Bitcoin ETF also offers a class of units that is U.S. dollar denominated, which could appeal to U.S. investors. Without an approved bitcoin ETP in the U.S. as a viable alternative, U.S. investors could seek to purchase these shares in order to get access to bitcoin exposure. Given the separate regulatory regime and the potential difficulties associated with any international litigation, such an arrangement would create more risk exposure for U.S. investors than they would otherwise have with a U.S. exchange listed ETP.

[37] The Exchange notes that securities regulators in a number of other countries have either approved or otherwise allowed the listing and trading of bitcoin ETPs. Specifically, these funds include the Purpose Bitcoin ETF, Bitcoin ETF, VanEck Vectors Bitcoin ETN, WisdomTree Bitcoin ETP, Bitcoin Tracker One, BTCetc bitcoin ETP, Amun Bitcoin ETP, Amun Bitcoin Suisse ETP, 21Shares Short Bitcoin ETP, and CoinShares Physical Bitcoin ETP.

[38] Because OTC Bitcoin Funds are not listed on an exchange, they are also not subject to the same transparency and regulatory oversight by a listing exchange as the Shares would be. In the case of the Trust, the existence of a surveillance-sharing agreement between the Exchange and the Bitcoin Futures market results in increased investor protections compared to OTC Bitcoin Funds.

[39] The inability to trade in line with NAV may at some point result in OTC Bitcoin Funds trading at a discount to their NAV, which has occurred more recently with respect to one prominent OTC Bitcoin Fund. While that has not historically been the case, and it is not clear whether such discounts will continue, such a prolonged, significant discount scenario would give rise to nearly identical potential issues related to trading at a premium as described below.

[40] As of March 31, 2021. *See* Form 10–Q submitted by on behalf of the Grayscale Bitcoin Trust for the quarterly period ended March 31, 2021 at 4: *https://grayscale.com/wp-content/uploads/sites/3/2021/05/gbtc_q1-2021_10q_as-filed.pdf.* Compare to an AUM of approximately $2.6 billion on February 26, 2020, the date on which the Commission issued the most recent disapproval order for a bitcoin ETP. *See* Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR–NYSEArca–2019–39) (the

Continued

premium of between roughly five and 40%, though it has seen premiums at times above 100%.[41] Recently, however, it has traded at a discount. As of June 18, 2021, the discount was approximately 11%, representing around $4.1 billion in market value less than the bitcoin actually held by the fund. If premium/discount numbers move back to the middle of its historical range to a 20% premium (which historically could occur at any time and overnight), it would represent a swing of approximately $11 billion in value unrelated to the value of bitcoin held by the fund. These numbers are only associated with a single OTC Bitcoin Fund—as more and more OTC Bitcoin Funds come to market and more investor assets flood into them to get access to bitcoin exposure, the potential dollars at risk will only increase.

This raises significant investor protection issues in several ways. First, the most obvious issue is that investors are buying shares of a fund for a price that is not reflective of the per share value of the fund's underlying assets. Even operating within the normal premium range, it's possible for an investor to buy shares of an OTC Bitcoin Fund only to have those shares quickly lose 10% or more in dollar value excluding any movement of the price of bitcoin. That is to say—the price of bitcoin could have stayed exactly the same from market close on one day to market open the next, yet the value of the shares held by the investor decreased only because of the fluctuation of the premium/discount. As more investment vehicles, including mutual funds and ETFs, seek to gain exposure to bitcoin, the easiest option for a buy and hold strategy is often an OTC Bitcoin Fund, meaning that even investors that do not directly buy OTC Bitcoin Funds can be disadvantaged by extreme premiums (or discounts) and premium volatility.

The second issue is related to the first and explains how the premium in OTC Bitcoin Funds essentially creates a direct payment from retail investors to more sophisticated investors. Generally speaking, only accredited investors are able to create or redeem shares with the issuing trust, which means that they are able to buy or sell shares directly with the trust at NAV (in exchange for either cash or bitcoin) without having to pay the premium or sell into the discount. While there are often minimum holding periods for shares, an investor that is allowed to interact directly with the trust is able to hedge their bitcoin exposure as needed to satisfy the holding requirements and collect on the premium or discount opportunity.

As noted above, the existence of a premium or discount and the premium/discount collection opportunity is not unique to OTC Bitcoin Funds and does not in itself warrant the approval of an ETP.[42] What makes this situation unique is that such significant and persistent premiums and discounts can exist in a product with $30+ billion in assets under management,[43] that billions of retail investor dollars are constantly under threat of premium/discount volatility,[44] and that premium/discount volatility is generally captured by more sophisticated investors on a riskless basis. The Exchange understands the Commission's focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that current circumstances warrant that this direct, quantifiable investor protection issue should be the central consideration as the Commission determines whether to approve this proposal, particularly when the Trust as a bitcoin ETP is designed to reduce the likelihood of significant and prolonged premiums and discounts with its open-ended nature as well as the ability of market participants (*i.e.,* market makers and authorized participants) to create and redeem on a daily basis.

(ii) Spot and Proxy Exposure

Exposure to bitcoin through an ETP also presents certain advantages for retail investors compared to buying spot bitcoin directly. The most notable advantage is the use of the Custodian to custody the Trust's bitcoin assets. The Sponsor has carefully selected the Custodian, a third party custodian that carries insurance covering both hot and cold storage and is chartered as a trust company and will custody the Trust's bitcoin assets in a manner so that it meets the definition of qualified custodian under the Investment Advisers Act of 1940, as amended. This includes, among others, the use of ''cold'' (offline) storage to hold private keys and the employment by the Custodian of a certain degree of cybersecurity measures and operational best practices. By contrast, an individual retail investor holding bitcoin through a cryptocurrency exchange lacks these protections. Typically, retail exchanges hold most, if not all, retail investors' bitcoin in ''hot'' (internet-connected) storage and do not make any commitments to indemnify retail investors or to observe any particular cybersecurity standard. Meanwhile, a retail investor holding spot bitcoin directly in a self-hosted wallet may suffer from inexperience in private key management (*e.g.,* insufficient password protection, lost key, etc.), which could cause them to lose some or all of their bitcoin holdings. In the Custodian, the Trust has engaged a regulated and licensed entity highly experienced in bitcoin custody, with dedicated, trained employees and procedures to manage the private keys to the Trust's bitcoin, and which is accountable for failures. Thus, with respect to custody of the Trust's bitcoin assets, the Trust presents advantages from an investment protection standpoint for retail investors compared to owning spot bitcoin directly.

Finally, as described in the Background section above, recently a number of operating companies engaged in unrelated businesses—such as Tesla (a car manufacturer) and MicroStrategy (an enterprise software company)—have announced investments as large as $1.5 billion in bitcoin.[45] Without access to bitcoin exchange-traded products, retail investors seeking investment exposure to bitcoin may end up purchasing shares in these companies in order to gain the exposure to bitcoin that they seek.[46] In

''Wilshire Phoenix Disapproval''). While the price of one bitcoin has increased approximately 400% in the intervening period, the total AUM has increased by approximately 1240%, indicating that the increase in AUM was created beyond just price appreciation in bitcoin.

[41] *See* ''Traders Piling Into Overvalued Crypto Funds Risk a Painful Exit'' (February 4, 2021) *available at: https://www.bloomberg.com/news/articles/2021-02-04/bitcoin-one-big-risk-when-investing-in-crypto-funds.*

[42] The Exchange notes, for example, that similar premiums/discounts and premium/discount volatility exist for other non-bitcoin cryptocurrency related over-the-counter funds, but that the size and investor interest in those funds does not give rise to the same investor protection concerns that exist for OTC Bitcoin Funds.

[43] At $35 billion in AUM, the largest OTC Bitcoin Fund would be the 32nd largest out of roughly 2,400 U.S. listed ETPs.

[44] The Exchange notes that in two recent incidents, the premium dropped from 28.28% to 12.29% from the close on 3/19/20 to the close on 3/20/20 and from 38.40% to 21.05% from the close on 5/13/19 to the close on 5/14/19. Similarly, over the period of 12/21/20 to 1/21/20, the premium went from 40.18% to 2.79%. While the price of bitcoin appreciated significantly during this period and NAV per share increased by 41.25%, the price per share increased by only 3.58%.

[45] In addition to numerous debt offerings, MicroStrategy recently filed with the SEC to offer for sale up to $1 billion in additional common stock, the proceeds of which may at least be partially used to acquire more bitcoin. See Form S–3 submitted by MicroStrategy Incorporated on June 14, 2021: *https://www.sec.gov/Archives/edgar/data/1050446/000119312521190150/d159028ds3asr.htm#tocb159028_8.*

[46] In August 2017, the Commission's Office of Investor Education and Advocacy warned investors about situations where companies were publicly announcing events relating to digital coins or tokens in an effort to affect the price of the

fact, mainstream financial news networks have written a number of articles providing investors with guidance for obtaining bitcoin exposure through publicly traded companies (such as MicroStrategy, Tesla, and bitcoin mining companies, among others) instead of dealing with the complications associated with buying spot bitcoin in the absence of a bitcoin ETP.[47] Such operating companies, however, are imperfect bitcoin proxies and provide investors with partial bitcoin exposure paired with a host of additional risks associated with whichever operating company they decide to purchase. Additionally, the disclosures provided by the aforementioned operating companies with respect to risks relating to their bitcoin holdings are generally substantially smaller than the registration statement of a bitcoin ETP, including the Registration Statement, typically amounting to a few sentences of narrative description and a handful of risk factors.[48] In other words, investors seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin and are not fully benefitting from the risk disclosures and associated investor protections that come from the securities registration process.

Bitcoin Futures

CME began offering trading in Bitcoin Futures in 2017. Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate.[49] The contracts trade and settle like other cash-settled commodity futures contracts. Nearly every measurable metric related to Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year. For example, there was approximately $28 billion in trading in Bitcoin Futures in December 2020 compared to $737 million, $1.4 billion, and $3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over $1.2 billion per day on the CME in December 2020 and represented $1.6 billion in open interest compared to $115 million in December 2019. This general upward trend in trading volume and open interest is captured in the following chart.

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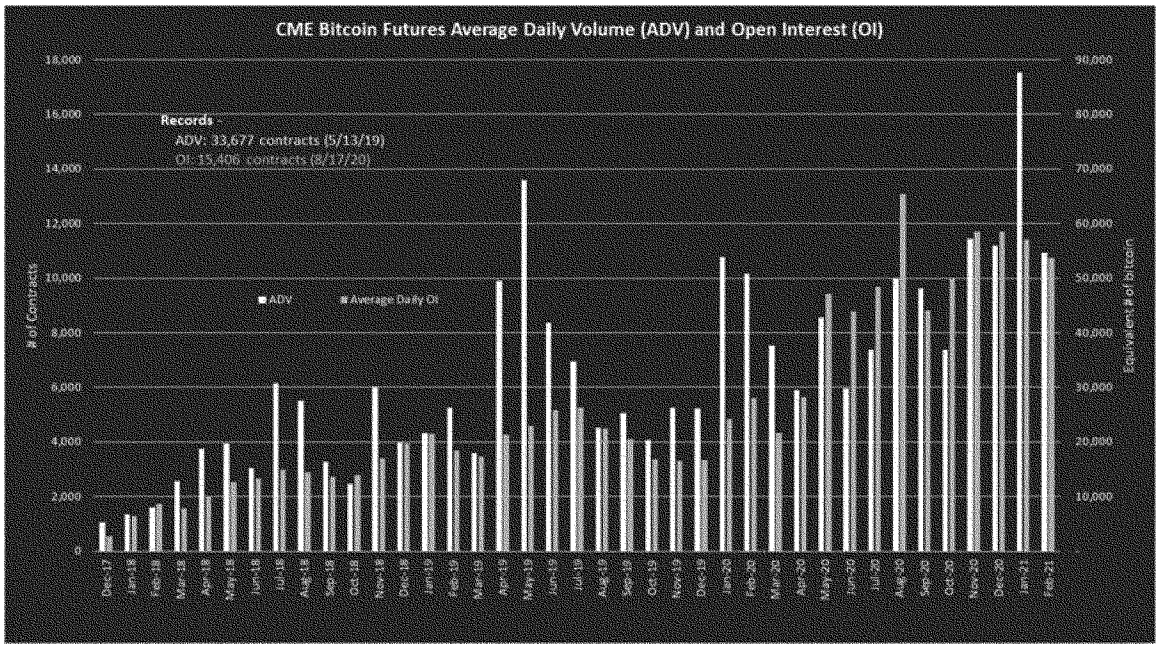



Similarly, the number of large open interest holders [50] has continued to increase even as the price of bitcoin has risen, as have the number of unique accounts trading Bitcoin Futures.

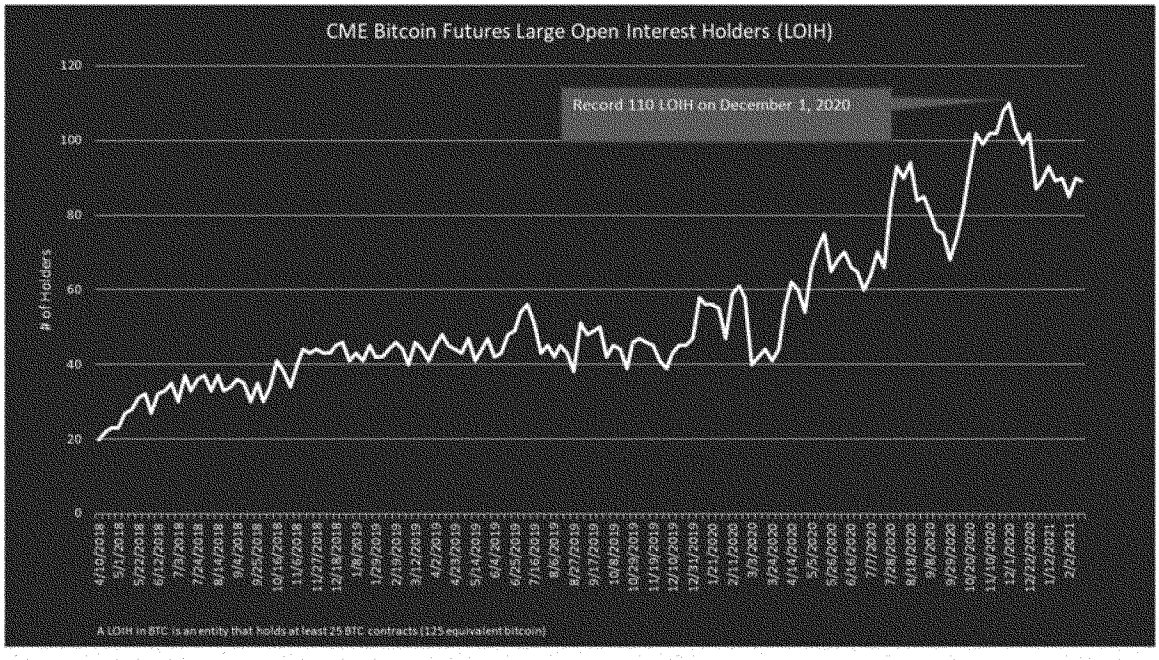
company's publicly traded common stock. *See https://www.sec.gov/oiea/investor-alerts-and-bulletins/ia_icorelatedclaims*

[47] *See e.g.,* ''7 public companies with exposure to bitcoin'' (February 8, 2021) available at: *https://finance.yahoo.com/news/7-public-companies-with-exposure-to-bitcoin-154201525.html;* and ''Want to get in the crypto trade without holding bitcoin yourself? Here are some investing ideas'' (February 19, 2021) available at: *https://www.cnbc.com/2021/02/19/ways-to-invest-in-bitcoin-without-holding-the-cryptocurrency-yourself-.html.*

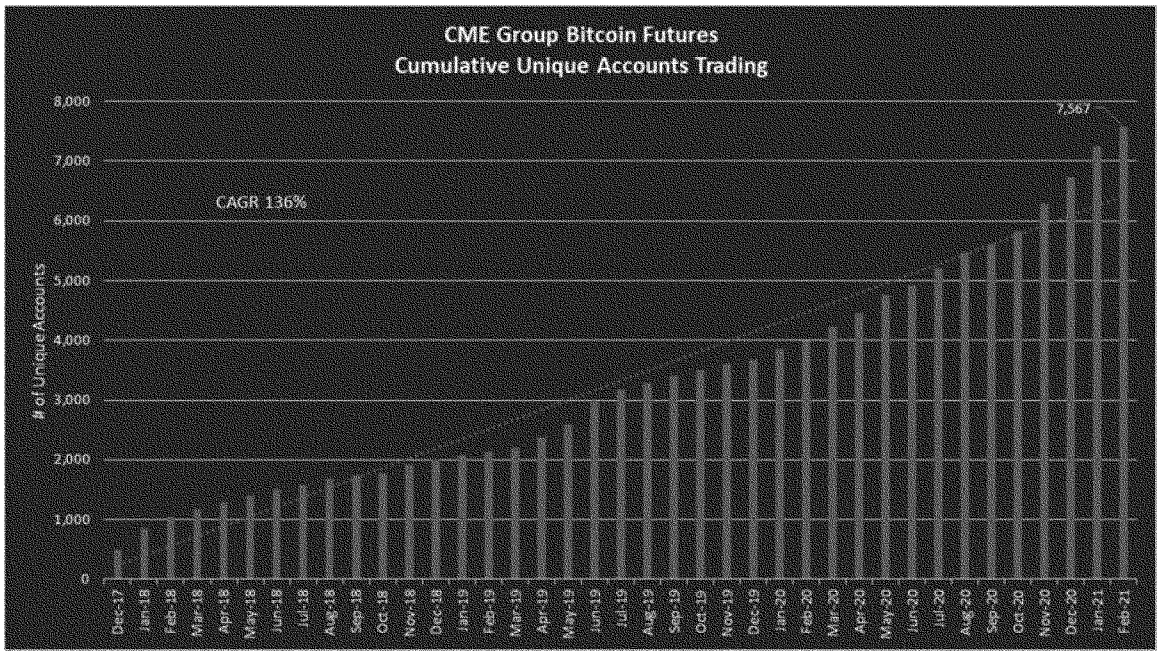
[48] *See e.g.,* Tesla 10–K for the year ended December 31, 2020, which mentions bitcoin just nine times: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

[49] According to CME, the CME CF Bitcoin Reference Rate aggregates the trade flow of major bitcoin spot exchanges during a specific calculation window into a once-a-day reference rate of the U.S. dollar price of bitcoin. Calculation rules are geared toward maximum transparency and real-time replicability in underlying spot markets, including Bitstamp, Coinbase, Gemini, itBit, and Kraken. For additional information, refer to *https://www.cmegroup.com/trading/cryptocurrency-indices/cf-bitcoin-reference-rate.html?redirect=/trading/cf-bitcoin-reference-rate.html.*

[50] A large open interest holder in Bitcoin Futures is an entity that holds at least 25 contracts, which is the equivalent of 125 bitcoin. At a price of approximately $30,000 per bitcoin on 12/31/20, more than 80 firms had outstanding positions of greater than $3.8 million in Bitcoin Futures.




The Sponsor further believes that academic research corroborates the overall trend outlined above and supports the thesis that the Bitcoin Futures pricing leads the spot market and, thus, a person attempting to manipulate the Shares would also have to trade on that market to manipulate the ETP. Specifically, the Sponsor believes that such research indicates that bitcoin futures lead the bitcoin spot market in price formation.[51]

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[51] *See* Hu, Y., Hou, Y. and Oxley, L. (2019). ''What role do futures markets play in Bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective'' (available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7481826/*). This academic research paper concludes that ''There exist no episodes where the Bitcoin spot markets dominates the price discovery processes with regard to Bitcoin futures. This points to a conclusion that the price formation originates solely in the Bitcoin futures market. We can, therefore, conclude that the Bitcoin futures markets dominate the dynamic price discovery process based upon time-varying information share measures. Overall, price discovery seems to occur in the Bitcoin futures markets rather than the underlying spot market based upon a time-varying perspective.''

Section 6(b)(5) and the Applicable Standards

The Commission has approved numerous series of Trust Issued Receipts,[52] including Commodity-Based Trust Shares,[53] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; [54] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal. Specifically, the Exchange lays out below why it believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares mitigate potential manipulation concerns to the point that the investor protection issues that have arisen from the rapid growth of over-the-counter bitcoin funds since the Commission last reviewed an exchange proposal to list and trade a bitcoin ETP, including premium/discount volatility and management fees, should be the central consideration as the Commission determines whether to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place [55] with a regulated market of significant size. Both the Exchange and CME are members of the Intermarket Surveillance Group (the ''ISG'').[56] The only remaining issue to be addressed is whether the Bitcoin Futures market constitutes a market of significant size, which the Exchange believes that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[57]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[58]

(a) Manipulation of the ETP

The significant growth in Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures lead the price in the spot market such that a potential manipulator of the bitcoin spot market would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the NAV is based on the price of bitcoin on the principal market, which identified market must be an active market with orderly transactions. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Trust's methodology for calculating NAV or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME, together with comprehensive surveillance sharing agreements between the Exchange and spot markets with material volume, would assist the

[52] *See* Exchange Rule 14.11(f).

[53] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[54] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[55] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance- sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval. The Exchange also notes that it has surveillance sharing agreements in place with several spot bitcoin exchanges.

[56] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[57] *See* Wilshire Phoenix Disapproval.

[58] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a 'cannot be manipulated' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.'' *Id.* at 37582.

listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange also believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin's market cap (approximately $1 trillion), and the significant liquidity available in the spot market. In addition to the Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[59] For a $10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[60] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the methodology which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the valuation methodology significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares, will charge fees as a percentage of the Trust's bitcoin holdings measure in bitcoin and not in dollars, and, barring a forced redemption of the Trust or under other extraordinary circumstances, will not be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important. When authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the valuation methodology because there is little financial incentive to do so.

Global X Bitcoin Trust

Delaware Trust Company is the trustee (''Trustee''). The Sponsor selects the administrator, transfer agent, marketing agent in connection with the creation and redemption of ''Baskets'' of Shares, and third-party regulated custodian that will be responsible for custody of the Trust's bitcoin.[61]

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in the bitcoin held by the Trust. The Trust's assets will consist of bitcoin held by the Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will hold cash on a temporary basis.

According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,[62] nor a commodity pool for purposes of the Commodity Exchange Act (''CEA''), and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

When the Trust sells or redeems its Shares, it will do so in ''in-kind'' transactions in blocks of Shares of a size to be determined (a ''Creation Basket'') at the Trust's NAV. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust. Authorized participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Trust's assets, and market conditions at the time of a transaction. Shareholders who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the NAV of the Shares of the Trust.

Investment Objective

According to the Registration Statement and as further described

[59] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[60] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[61] The Exchange notes that the Sponsor is finalizing negotiations with each of the administrator, transfer agent, marketing agent, and custodian, and it will submit an amendment to this proposal upon execution of agreements with the administrator, transfer agent, marketing agent, and custodian.

[62] 15 U.S.C. 80a–1.

below, the investment objective of the Trust is to reflect the performance of the price of bitcoin less the expenses of the Trust's operations. The Trust will not seek to reflect the performance of any benchmark or index.

In seeking to achieve its investment objective, the Trust will hold bitcoin. The Trust will value its assets daily in accordance with Generally Accepted Accounting Principles (''GAAP''), which generally value bitcoin by reference to orderly transactions in the principal active market for bitcoin, as further described in the ''Calculation of NAV'' section below. The Trust will process all creations and redemptions in-kind in transactions with authorized participants. The Trust is not actively managed.

Calculation of NAV

As described in the Registration Statement, the Sponsor has adopted a policy pursuant to which the Trust will value its assets and liabilities. Under this policy, the Sponsor uses fair value standards according to GAAP.

Generally, the fair value of an asset that is traded on a market is measured by reference to the orderly transactions on an active market. Among all active markets with orderly transactions, the market that is used to determine the fair value of an asset is the principal market (with exceptions described in more detail below), which is either the market on which the Trust actually transacts, or if there is sufficient evidence, the market with the most trading volume and level of activity for the asset. Where there is no active market with orderly transactions for an asset, the Sponsor's valuation committee follows policies and procedures described in more detail below to determine the fair value.

The Sponsor first determines which markets are likely to be active markets with orderly transactions for bitcoin. Currently, the Sponsor has determined that active markets with orderly transactions are those that provide relevant and reliable price and volume information because the venues supporting such markets:

- Conduct trading for bitcoin in U.S. dollars;
- are appropriately licensed to engage in bitcoin trading involving New York-based customers (and therefore, among other things, have programs to effectively detect, prevent, and respond to fraud); and
- otherwise have sufficient indicia of an active market with orderly transactions: Quality of execution (overall costs of a trade, accurate and timely execution, clearance and error/dispute resolution); reputation, financial strength, compliance with laws and regulations, and stability; hours of operation and willingness to transact; confidentiality of trading activity; and integrity of trade and price data.

The Sponsor has determined that both certain bitcoin venues and the OTC market meet these criteria. Among the venues supporting active markets with orderly transactions, the Sponsor determines to which such venues the Trust has access and refers to these as eligible venues. Eligible venues consist of eligible OTC venues and eligible exchanges.

The Sponsor then determines the principal market for bitcoin as either the market that the Trust normally transacts in for bitcoin, or, if the Trust does not normally transact in any market or the Sponsor has sufficient evidence that a particular market has the highest trading volume and level of activity, such market.

The Trust will not purchase or, barring the liquidation of the Trust or the Trust incurring certain extraordinary expenses or liabilities not contractually assumed by the Sponsor, sell bitcoin directly. As a result, the Sponsor expects that the principal market will generally be the market with the highest trading volume and level of activity, which the Sponsor expects will typically be an eligible exchange. The Sponsor determines the principal market for bitcoin at least quarterly and more frequently as circumstances warrant. Circumstances in which the Sponsor may re-determine the principal market include but are not limited to the following: Where the market is no longer an eligible market or when the trading volume for bitcoin on another eligible market increases such that that eligible market has the highest trading volume for the digital asset by a material margin.

Whether the principal market for bitcoin is an eligible exchange or the OTC market, the price on such principal market may not always represent fair value or the transactions on such market may not always represent orderly transactions. Thus, the Sponsor will not use the principal market to determine the fair value of bitcoin on a measurement date if the Sponsor determines, at the time of valuation, that transactions on the principal market are not orderly (*e.g.,* indicative of forced liquidations or distress sales). To make this determination, the Sponsor reviews criteria including:

- A comparison of the prices on the principal market against the prices on other eligible venues that the Sponsor believes have the strongest regulatory compliance, surveillance, and enforcement mechanisms;
- trading volume and prices on the principal market at and around the time of valuation relative to historical activity on the principal market and eligible venues;
- the Sponsor's understanding of the market's regulatory compliance, including with applicable federal and state licensing requirements, and practices regarding anti-money laundering;
- the degree of intraday price fluctuations the market experiences at and around the time of valuation; and
- the ability of the Trust to trade on the market.

If the Sponsor determines that transactions on the principal market are not orderly, the Sponsor will determine the fair value of bitcoin based on the eligible exchange with the next-highest volume, as long as the Sponsor determines that that market has orderly transactions at the time of the valuation.

If market quotations are not readily available (including in cases in which available market quotations are deemed to be unreliable or infrequent), the Trust's bitcoin will be valued as determined in good faith pursuant to policies and procedures approved by the Sponsor's valuation committee (''fair value pricing''). In these circumstances, the Trust determines fair value in a manner that seeks to reflect the market value of the investment at the time of valuation based on consideration of any information or factors the Sponsor's valuation committee deems appropriate, as further described below. The Sponsor's valuation committee is responsible for overseeing the implementation of the Trust's valuation procedures and fair value determinations. For purposes of determining the fair value of bitcoin, the valuation committee may consider, without limitation: (i) Indications or quotes from brokers, (ii) valuations provided by a third-party pricing agent, (iii) internal models that take into consideration different factors determined to be relevant by the Sponsor or (iv) any combination of the above.

Availability of Information

In addition to the price transparency related to the price of bitcoin, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an Intraday Indicative Value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the

Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price [63] in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

Creation and Redemption of Shares

According to the Registration Statement, on any business day, an authorized participant may place an order to create one or more baskets. Purchase orders must be placed by 4:00 p.m. Eastern Time, or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received is considered the purchase order date. The total deposit of bitcoin required is an amount of bitcoin that is in the same proportion to the total assets of the Trust, net of accrued expenses and other liabilities, on the date the order to purchase is properly received, as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the date the order is received. Each night, the Sponsor will publish the amount of bitcoin that will be required in exchange for each creation order. The Administrator determines the required deposit for a given day by dividing the number of bitcoin held by the Trust as of the opening of business on that business day, adjusted for the amount of bitcoin constituting estimated accrued but unpaid fees and expenses of the Trust as of the opening of business on that business day, by the quotient of the number of Shares outstanding at the opening of business divided by the size of a Creation Basket. The procedures by which an authorized participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets.

Rule 14.11(e)(4)—Commodity-Based Trust Shares

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) issued by a trust that holds a specified commodity [64] deposited with the trust; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity.

Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books

[63] As defined in Rule 11.23(a)(3), the term ''BZX Official Closing Price'' shall mean the price disseminated to the consolidated tape as the market center closing trade.

[64] For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act. As noted above, the CFTC has opined that Bitcoin is a commodity as defined in Section 1a(9) of the Commodity Exchange Act. *See* Coinflip.

and records (see, *e.g.,* Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the bitcoin underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01 where the price is greater than $1.00 per share or $0.0001 where the price is less than $1.00 per share.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and Bitcoin Futures via ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[65]

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for the creation and redemption of Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours[66] when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[67] in general and Section 6(b)(5) of the Act[68] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

The Commission has approved numerous series of Trust Issued Receipts,[69] including Commodity-Based Trust Shares,[70] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices;[71] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest.

The Exchange believes that the proposal is, in particular, designed to protect investors and the public interest. With the growth of OTC Bitcoin Funds over the past year, so too has grown the potential risk to U.S. investors. Significant and prolonged premiums and discounts, significant premium/discount volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis, via risks that could potentially be eliminated through access to a bitcoin ETP. As such, the Exchange believes that this proposal acts to limit the risk to U.S. investors that are increasingly seeking exposure to bitcoin through the elimination of significant and prolonged premiums and discounts, significant premium/discount volatility, the reduction of management fees through meaningful competition, the avoidance of risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure, and protection from risk associated with custodying spot bitcoin by providing direct, 1-for-1 exposure to bitcoin in a regulated, transparent, exchange-traded vehicle designed to reduce the likelihood of

[65] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[66] Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[67] 15 U.S.C. 78f.

[68] 15 U.S.C. 78f(b)(5).

[69] *See* Exchange Rule 14.11(f).

[70] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[71] *See* note 54.

significant and prolonged premiums and discounts with its open-ended nature as well as the ability of market participants (*i.e.,* market makers and authorized participants) to create and redeem on a daily basis.

The Exchange also believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal. Specifically, the Exchange believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares mitigate potential manipulation concerns to the point that the investor protection issues that have arisen from the rapid growth of over-the-counter bitcoin funds since the Commission last reviewed an exchange proposal to list and trade a bitcoin ETP, including premium/discount volatility and management fees, should be the central consideration as the Commission determines whether to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place [72] with a regulated market of significant size. Both the Exchange and CME are members of ISG.[73] The only remaining issue to be addressed is whether the Bitcoin Futures market constitutes a market of significant size, which the Exchange believes that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[74]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[75]

(a) Manipulation of the ETP

The significant growth in Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures lead the price in the spot market such that a potential manipulator of the bitcoin spot market would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the NAV is based on the price of bitcoin on the principal market, which identified market must be an active market with orderly transactions. Further, the Trust only allows for in-kind creation and redemption, which, as further described above, reduces the potential for manipulation of the Shares through manipulation of the Trust's methodology for calculating NAV or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange also believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin's market cap (approximately $1 trillion), and the significant liquidity available in the spot market. In addition to the Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[76] For a $10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin

[72] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval. The Exchange also notes that it has surveillance sharing agreements in place with several spot bitcoin exchanges.

[73] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[74] *See* Wilshire Phoenix Disapproval.

[75] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a ''cannot be manipulated'' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met. *Id.* at 37582.

[76] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[77] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the methodology which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the valuation methodology significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares, will charge fees as a percentage of the Trust's bitcoin holdings measure in bitcoin and not in dollars, and, barring a forced redemption of the Trust or under other extraordinary circumstances, will not be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important. When authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the valuation methodology because there is little financial incentive to do so.

Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Availability of Information

The Exchange also believes that the proposal promotes market transparency in that a large amount of information is currently available about bitcoin and will be available regarding the Trust and the Shares. In addition to the price transparency related to the price of bitcoin, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin

[77] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

exchanges are 24 hours per day, 365 days per year

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written 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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

**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–2021–052 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–2021–052. 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–2021–052 and should be submitted on or before September 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[78]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021–17965 Filed 8–20–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting; Cancellation

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 86 FR 45795, August 16, 2021.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** Thursday, August 19, 2021 at 2:00 p.m.

**CHANGES IN THE MEETING:** The Closed Meeting scheduled for Thursday, August 19, 2021 at 2:00 p.m., has been cancelled.

[78] 17 CFR 200.30–3(a)(12).

**CONTACT PERSON FOR MORE INFORMATION:** For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: August 19, 2021.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2021–18173 Filed 8–19–21; 11:15 am]

**BILLING CODE 8011–01–P**

## SOCIAL SECURITY ADMINISTRATION

**[Docket No: SSA–2021–0030]**

### Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Comments: *https://www.reginfo.gov/public/do/PRAMain.* Submit your comments online referencing Docket ID Number [SSA–2021–0030].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2021–0030].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 19, 2021. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Certificate of Support—20 CFR 404.370, 404.408a, and 404.750—0960–

0001. A parent of a deceased, fully insured worker may be entitled to Social Security Old-Age, Survivors, and Disability Insurance (OASDI) benefits based on the earnings record of the deceased worker under certain conditions. One of the conditions is when the parent receives at least one-half support from the deceased worker at certain points in time. The one-half support requirement also applies to a spousal applicant in determining whether OASDI benefits are subject to Government Pension Offset (GPO). SSA uses Form SSA–760, Certificate of Support, to determine if the parent of a deceased worker or a spouse applicant meets the one-half support requirement. Respondents are parents of deceased workers and spouses who may meet the GPO exception.

*Type of Request*: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Total annual opportunity cost (dollars) ** |
|---|---|---|---|---|---|---|
| SSA–760 | 18,000 | 1 | 15 | 4,500 | * $27.07 | ** 121,815 |

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Medical Source Opinion of Patient's Capability to Manage Benefits—20 CFR 404.2015 and 416.615—0960–0024.* SSA appoints a representative payee in cases where we determine beneficiaries are not capable of managing their own benefits. In these instances, we require medical evidence to determine the beneficiaries' capability of managing or directing their benefit payments. SSA collects medical evidence on Form SSA–787, Medical Source Opinion of Patient's Capability to Manage Benefits, to: (1) Determine beneficiaries' capability or inability to handle their own benefits; and (2) assist in determining the beneficiaries' need for a representative payee. The respondents are the beneficiary's physicians, or medical officers of the institution in which the beneficiary resides.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Total annual opportunity cost (dollars) ** |
|---|---|---|---|---|---|---|
| SSA–787 | 767,737 | 1 | 20 | 255,912 | $105.22 | $26,927,061 |

* We based this figure on the national average medical professionals' salaries as reported by the US Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes291228.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*3. Work Activity Report—Employee—20 CFR 404.1520(b), 404.1571–404.1576, 404.1584–404.1593, and 416.971–404.976—0960–0059.* SSA uses Form SSA–821–BK, Work Activity Report—Employee, and its electronic version, the SSA–821–APP, to collect recipient employment information to determine whether recipients worked after becoming disabled and, if so, whether the work is substantial gainful activity. SSA uses the SSA–821–BK and SSA–821–APP to obtain work information during the initial claims process, the continuing disability review process, post-adjudicative work issue actions, and for Supplemental Security Income (SSI) claims involving work issues. SSA reviews and evaluates the data to determine if the applicant or recipient meets the disability requirements of the law. The respondents are applicants or recipients of Title II Social Security Disability, and Title XVI SSI applicants.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Average wait time in field office or for teleservice Centers (minutes) ** | Total annual opportunity cost (dollars) *** |
|---|---|---|---|---|---|---|---|
| SSA-821-BK (Paper) | 319,900 | 1 | 30 | 159,950 | * $10.95 | ** 21 | *** $2,977,469 |
| SSA–821–APP (Electronic) | 91,400 | 1 | 30 | 45,700 | * 10.95 | | *** 500,415 |
| Totals | 411,300 | | | 205,650 | | | *** 3,477,884 |

* We based this figure on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).

** We based this figure on averaging both the average FY 2021 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*4. Application for Supplemental Security Income—20 CFR 416.207 and 416.305–416.335, subpart C—0960–0229.* The SSI program provides aged, blind, and disabled individuals who have little or no income, with funds for food, clothing, and shelter. Individuals complete Form SSA–8000–BK, Application for Supplemental Security Income, to apply for SSI. SSA uses the information from Form SSA–8000–BK, and its electronic intranet counterpart, the SSI Claim System, to: (1) Determine whether SSI claimants meet all statutory and regulatory eligibility requirements; and (2) calculate SSI payment amounts. The respondents are applicants for SSI or their representative payees. Type of Request: Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Average wait time in field office or for teleservice centers (minutes) ** | Total annual opportunity cost (dollars) *** |
|---|---|---|---|---|---|---|---|
| SSI Claim System .. | 1,212,512 | 1 | 35 | 707,299 | * $19.01 | ** 21 | *** $21,513,199 |
| SSA–8000–BK (Paper Form) ..... | 20,941 | 1 | 41 | 14,310 | * 19.01 | ** 21 | *** 411,357 |
| Totals ..... | 1,233,453 | ..... | ..... | 721,609 | ..... | ..... | *** 21,924,556 |

* We based this figure by averaging both the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** We based this figure on averaging both the average FY 2021 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*5. State Supplementation Provisions: Agreement; Payments—20 CFR 416.2095–416.2098, and 416.2099—0960–0240.* Section 1618 of the Social Security Act (Act) requires those states administering their own supplementary income payment program(s) to demonstrate compliance with the Act by passing Federal cost-of-living increases on to individuals who are eligible for state supplementary payments. States are required to report to SSA their compliance of the passing-along of such increases. In general, states report their supplementary payment information annually by the maintenance-of-payment levels method. However, SSA may ask them to report up to four times in a year by the total-expenditures method. Regardless of the method, the states confirm their compliance with the requirements, and provide any changes to their optional supplementary payment rates. SSA uses the information to determine each state's compliance or noncompliance with the pass-along requirements of the Act to determine eligibility for Medicaid reimbursement. If a state fails to keep payments at the required level, it becomes ineligible for Medicaid reimbursement under Title XIX of the Act. Respondents are state agencies administering supplementary income payment programs.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Total annual opportunity cost (dollars) ** |
|---|---|---|---|---|---|---|
| SSA–8019–U2 (Paper) ..... | 11 | 1 | 60 | 11 | * $21.46 | ** $236 |
| SSI Claims System (Intranet) ..... | 22 | 1 | 60 | 22 | * 21.46 | ** 472 |
| Totals ..... | 33 | ..... | ..... | 33 | ..... | ** 708 |

* We based this figure on the average state Eligibility for Government Programs Interviewers hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes434061.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*6. Representative Payee Report of Benefits and Dedicated Account—20 CFR 416.546, 416.635, 416.640, and 416.665—0960–0576.* SSA requires representative payees to submit a written report accounting for the use of money paid to Social Security or SSI recipients, and to establish and maintain a dedicated account for these payments. SSA uses Form SSA–6233, Representative Payee Report of Benefits and Dedicated Account, to: (1) Ensure the representative payees use the payments for the recipient's current maintenance and personal needs; and (2) confirm the expenditures of funds from the dedicated account remain in compliance with the law. Respondents are representative payees for SSI and Social Security recipients.

*Type of Request:* Revision of an OMB approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Average wait time in field office or for teleservice centers (minutes) ** | Total annual opportunity cost (dollars) *** |
|---|---|---|---|---|---|---|---|
| SSA–6233 ..... | 31,500 | 1 | 20 | 10,500 | * $27.07 | ** 21 | *** $582,682 |

* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** We based this figure on averaging both the average FY 2021 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*7. Credit Card Payment Form—0960–0648.* SSA uses Form SSA–1414, Credit Card Payment Form, to process: (1) Credit card payments from former employees and vendors with outstanding debts to the agency; (2) advance payments for reimbursable agreements; and (3) credit card payments for all Freedom of Information Act (FOIA) requests requiring payment. The respondents are former employees and vendors who have outstanding debts to the agency; entities who have reimbursable agreements with SSA; and individuals who request information through FOIA.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Total annual opportunity cost (dollars) ** |
|---|---|---|---|---|---|---|
| SSA–1414 ..... | 6,000 ..... | 1 | 2 | 200 | * $27.07 | ** $5,414 |

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

8. *Notification of a Social Security Number (SSN) to an Employer for Wage Reporting Purposes—20 CFR 422.103(a)—0960–0778.* Individuals applying for employment must provide an SSN or indicate they have applied for one. However, when an individual applies for an initial SSN, there is a delay between the assignment of the number and the delivery of the SSN card. At an individual's request, SSA uses Form SSA–132, Notification of a Social Security Number (SSN) to an Employer for Wage Reporting Purposes, to send the individual's SSN to an employer. Mailing this information to the employer: (1) Ensures the employer has the correct SSN for the individual; (2) allows SSA to receive correct earnings information for wage reporting purposes; and (3) reduces the delay in the initial SSN assignment and delivery of the SSN information directly to the employer. It also enables SSA to verify the employer as a safeguard for the applicant's personally identifiable information. The respondents are individuals applying for an initial SSN who ask SSA to mail confirmation of their application or the SSN to their employers.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Average wait time in field office (minutes) ** | Total annual opportunity cost (dollars) *** |
|---|---|---|---|---|---|---|---|
| SSA–132 ..... | 124,668 | 1 | 2 | 4,156 | * $27.07 | ** 24 | *** $1,462,403 |

* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** We based this figure on the average FY 2021 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*9. Data Exchange Request Form—20 CFR 401.100—0960–0802.* SSA maintains approximately 3,000 data exchange agreements and regularly receives new requests from Federal, State, local, and foreign governments, as well as private organizations, to share data electronically. SSA engages in various forms of data exchanges from Social Security number verifications to computer matches for benefit eligibility, depending on the requestor's business needs. Section 1106 of the Act requires we consider the requestor's legal authority to receive the data, our disclosure policies, systems' feasibility, systems' security, and costs before entering into a data exchange agreement. We use Form SSA–157, Data Exchange Request Form, for this purpose. Requesting agencies, governments, or private organizations will use the form when voluntarily initiating a request for data exchange from SSA. Respondents are Federal, State, local, and foreign governments, as

well as private organizations seeking to share data electronically with SSA.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Total annual opportunity cost (dollars) ** |
|---|---|---|---|---|---|---|
| State, local, and tribal governments | 139 | 1 | 45 | 104 | *$42.85 | **$4,456 |
| Private sector organizations | 74 | 1 | 45 | 56 | *$42.85 | **$2,400 |
| Totals | 213 | | | 160 | | **$6,856 |

*We based this figure by averaging the average Management Analyst hourly salary, as reported by Bureau of Labor Statistics data (*www.bls.gov/oes/current/oes131111.htm*); the average Business and Financial Operations hourly salary (*www.bls.gov/oes/current/oes130000.htm*); and the average Epidemiologist hourly salary (*www.bls.gov/oes/current/oes191041.htm*).

**This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

*10. Fee Agreement for Representation before the Social Security Administration—0960–0810.* The Act requires individuals who represent a claimant before the agency and want to receive a fee for their services to obtain SSA's authorization of the fee. One way to obtain the authorization is to submit the fee agreement to the agency either in writing or through using Form SSA–1693, Fee Agreement for Representation before the Social Security Administration. Since representatives currently use fee agreements which vary in length, content, and complexity, submission of a free-form fee agreement may cause delays in SSA's review time. Therefore, SSA encourages respondents to use Form SSA–1693 to submit the information either using the paper form or the electronically submittable e1693 through SSA's website. SSA uses the information from the SSA–1693 to review the request and authorize any fee to representatives who seek to charge and collect a fee from a claimant. The respondents are the representatives who help claimants through the application process, and the claimants who they represent.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality of completion | Number of respondents | Frequency of response | Average burden per response (minutes) | Estimated total annual burden (hours) | Average theoretical hourly cost amount (dollars) * | Total annual opportunity cost (dollars) ** |
|---|---|---|---|---|---|---|
| SSA–1693 | 5,000 | 1 | 13 | 1,083 | *$50.47 | **$54,659 |

*We based this figure on the averaged total of the average Lawyer's Legal Services wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes231011.htm*), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

**This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: August 17, 2021.

**Naomi Sipple,**

*Reports Clearance Officer,Social Security Administration.*

[FR Doc. 2021–17928 Filed 8–20–21; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice 11508]**

### Notice of Public Meeting in Preparation for International Maritime Organization Meeting

The Department of State will conduct a public meeting at 10:00 a.m. on Thursday, September 16, 2021, by way of teleconference. Members of the public may participate up to the capacity of the teleconference phone line, which can handle 500 participants. To access the teleconference line, participants should contact the meeting coordinator, LCDR Jessica Anderson, by email at *jessica.p.anderson@uscg.mil.*

The primary purpose of the meeting is to prepare for the seventy-first session of the International Maritime Organization's (IMO) Technical Cooperation Committee (TC 71) to be held remotely from Monday, September 20, 2021 to Friday, September 24, 2021.

The agenda items to be considered at the public meeting mirror those to be considered at the IMO TC 71 meeting, and include:

—Adoption of the agenda
—Work of other bodies and organizations
—Integrated Technical Cooperation Programme: Annual report for 2020
—Resource mobilization and partnerships
—The 2030 Agenda for Sustainable Development
—Report of the evaluation of the ITCP activities for the period of 2016–2019
—Long-term strategy for the review and reform of IMO's technical cooperation
—Regional presence and coordination
—IMO Member State Audit Scheme
—Capacity-building: Strengthening the impact of women in the maritime sector
—Global maritime training institutions
—Application of the document on the *Organization and method of work of the Technical Cooperation Committee*
—Work programme
—Election of Chair and Vice-Chair for 2022
—Any other business
—Consideration of the report of the Committee on its seventy-first session

*Please note:* the IMO may, on short notice, adjust the TC 71 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP and those in attendance at the meeting.

Those who plan to participate may contact the meeting coordinator, LCDR Jessica Anderson, by email at *Jessica.P.Anderson@uscg.mil,* or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509. Members of the public needing reasonable accommodation should advise LCDR Jessica Anderson not later than September 13, 2021. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO*.

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

**Emily A. Rose,**

*Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2021–18000 Filed 8–20–21; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Adoption of the Missile Defense Agency's Final Environmental Impact Statement for Long Range Discrimination Radar (LRDR) Operations, Clear Air Force Station, Alaska (CAFS), and Record of Decision for Federal Aviation Administration Actions To Accommodate Testing and Operation of the LRDR at CAFS Under the Missile Defense Agency's Modified Operational Concept

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

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of the FAA's *Adoption of the Missile Defense Agency's Final Environmental Impact Statement for Long Range Discrimination Radar (LRDR) Operations, Clear Air Force Station, Alaska (CAFS), and Record of Decision for Federal Aviation Administration Actions to Accommodate Testing and Operation of the LRDR at CAFS under the Missile Defense Agency's Modified Operational Concept* (''the Adoption/ROD''). The Adoption/ROD documents: (1) The FAA's adoption of the Missile Defense Agency's (MDA) *Environmental Impact Statement (EIS) for Long Range Discrimination Radar (LRDR) Operations, Clear Air Force Station (CAFS), Alaska;* and (2) the FAA's decision to establish additional restricted areas to protect aviation from high-intensity radiated fields (HIRF) generated during the LRDR testing and operation, implement temporary flight restrictions (TFR) until the restricted areas are in effect, and make changes to federal airways and instrument flight procedures to accommodate the new restricted areas.

**FOR FURTHER INFORMATION CONTACT:** Paula Miller, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–7378.

**SUPPLEMENTARY INFORMATION:**

#### Background

The MDA prepared an EIS to evaluate the potential environmental impacts associated with the MDA's proposed modification of operational requirements and procedures for the LRDR located at CAFS, Alaska.[1] The change in the LRDR operation procedures would create a hazard in areas of the National Airspace System where the HIRF from the LRDR operations would exceed FAA certification standards for aircraft electrical and electronic systems. The EIS also evaluated the potential environmental impacts of the following actions proposed by the FAA to address this hazard: (1) Establishment of six additional restricted areas in the vicinity of CAFS; (2) implementation of TFRs until the restricted areas are in effect; and (3) changes to federal airways and instrument flight procedures to accommodate the new restricted areas. As a cooperating agency on the EIS, the FAA coordinated closely with the MDA and actively participated in the preparation of the EIS. In accordance with FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* and regulations and guidance of the Council on Environmental Quality, the FAA conducted an independent evaluation and analysis of the EIS and adopted it for the purpose of making a decision on its proposed actions. The FAA's adoption and decision are documented in the Adoption/ROD.

#### Notice of Availability

The Adoption/ROD is available on the FAA's website at *https://www.faa.gov/air_traffic/environmental_issues/media/alaska_eis.pdf* and upon request by contacting Paula Miller at: Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–7378.

#### Right of Appeal

The FAA's Adoption/ROD constitutes a final order of the FAA Administrator and is subject to exclusive judicial review under 49 U.S.C. 46110 by the U.S. Circuit Court of Appeals for the District of Columbia or the U.S. Circuit Court of Appeals for the circuit in which the person contesting the decision resides or has its principal place of business. Any party having substantial interest in this order may apply for review of the decision by filing a petition for review in the appropriate U.S. Court of Appeals no later than 60 days after the order is issued in accordance with the provisions of 49 U.S.C. 46110. Any party seeking to stay implementation of the Adoption/ROD must file an application with the FAA prior to seeking judicial relief as provided in Rule 18(a) of the Federal Rules of Appellate Procedure.

Issued in Des Moines, Washington, on August 17, 2021.

**B.G. Chew,**

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

[FR Doc. 2021–17962 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–13–P**

[1] The Draft EIS and the Final EIS are available on the U.S. Environmental Protection Agency's EIS database at *https://cdxnodengn.epa.gov/cdx-enepa-II/public/action/eis/search/search#results* and on MDA's website at *https://www.mda.mil/system/lrdr* (accessed June 30, 2021).

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2021–0006–N–10]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

**DATES:** Interested persons are invited to submit comments on or before October 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed ICR

should be submitted on *regulations.gov* to the docket, Docket No. FRA–2021–0006. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hodan Wells, Information Collection Clearance Officer, at email: *hodan.wells@dot.gov* or telephone: (202) 493–0440, or Mr. John Purnell, Information Collection Clearance Officer at email: *john.purnell@dot.gov* or telephone: (202) 493–0500.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Railroad Locomotive Safety Standards and Event Recorders.

*OMB Control Number:* 2130–0004.

*Abstract:* FRA's locomotive safety standards (49 CFR part 229) require railroads to inspect, repair, and maintain locomotives, including their event recorders, to ensure they are safe and free of defects.

The data gathered from locomotive event recorders is used by the railroad industry and by railroad employees (locomotive engineers, train crews, dispatchers) to improve train handling and promote the safe and efficient operation of trains throughout the country. Locomotive event recorders also provide FRA and State railroad safety inspectors with verified data elements for use in their oversight responsibilities that show how trains are operated from lead locomotives.

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

*Affected Public:* Businesses.

*Form(s):* FRA F 6180.49A.

*Respondent Universe:* 754 railroads.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

| CFR section [1] | Respondent universe | Total annual responses | Average time per responses | Total annual burden hours | Total cost equivalent [2] |
|---|---|---|---|---|---|
| 229.9—Movement of non-complying locomotives—Tagging to indicate ''non-complying locomotive''. | 754 railroads | 1,307 tags | 1 minute | 21.79 hours | $1,566.48 |
| 229.15(a)(11)—Remote control locomotives—Tagging to indicate in remote control. | 754 railroads | 349 tags | 1 minute | 5.82 hours | 418.40 |
| 229.20(c)—Operational requirements—Automatic notice to railroads each time locomotive is due for inspection or maintenance (Note: This requirement does not apply to daily inspections.). | 754 railroads | 21,000 automatic notifications. | 1 second | 5.83 hours | 451.48 |
| 229.21(a)—Daily inspection—Except for multiple-unit (MU) operated locomotive. | 754 railroads | 7,443,020 written inspection reports. | 3 minutes (paper records) + 1 minute (electronic records). | 148,860.40 hours | 11,527,749.38 |
| —(b) Written reports of MU locomotive inspections. | 754 railroads | 1,300,000 written reports. | 3 minutes | 65,000.00 hours | 4,672,850.00 |
| 229.23(d)–(g)—Periodic Inspection—Locomotive Inspection & Repair Record—Form FRA F 6180.49A. | 718 railroads | 28,627 other than passenger locomotives. | 15 minutes | 7,156.75 hours | 514,498.76 |

| CFR section [1] | Respondent universe | Total annual responses | Average time per responses | Total annual burden hours | Total cost equivalent [2] |
|---|---|---|---|---|---|
| 229.23(d)–(g)—Periodic Inspection—Locomotive Inspection & Repair Record—Form FRA F 6180.49A [3]. | 36 railroads | 4,500 passenger locomotives. | 15 minutes | 1,125.00 hours | 80,876.25 |
| 229.25(d)(2)—Data verification readout of event recorder. | 754 railroads | 5,908 readout records and reports. | 90 minutes | 8,862.00 hours | 686,273.28 |
| 229.46—Tagging locomotive with inoperative or ineffective automatic/independent brake that can only be used in trailing position. | 754 railroads | 2,269 tags | 1 minute | 37.81 hours | 2,718.16 |
| 229.85—Marking of all doors, cover plates, or barriers having direct access to high voltage equipment with words ''Danger High Voltage'' or with word ''Danger''. | 754 railroads | 1,080 decals or markings. | 1 minute | 18.00 hours | 1,078.02 |
| 229.123(b)(2)—Locomotives equipped with a pilot, snowplow & plate with clearance above 6 inches—Marking/stenciling with words ''9-inch Maximum End Plate Height, Yard or Trail Service Only''. | 754 railroads | 22 markings/stencils | 4 minutes | 1.44 hours | 104.96 |
| 229.303—Requests to FRA for on-track testing of products outside a facility. | 754 railroads | 5 written requests | 1 hour | 5.00 hours | 387.20 |
| 229.307—Safety Analysis for each product subject to this subpart—Document establishing minimum requirements. | 754 railroads | 3 safety analysis documents. | 240 hours | 720.00 hours | 55,756.80 |
| 229.309—Safety critical changes to product subject to this subpart—Notice to FRA. | 754 railroads | 5 notifications | 8 hours | 40.00 hours | 3,097.60 |
| —(b) and (c) Report by product suppliers and private owners to railroads of any safety-critical changes to product. | 3 manufacturers | 15 reports | 8 hours | 120.00 hours | 9,292.80 |
| 229.311(a)—Notice to FRA by railroad before placing product in service. | 754 railroads | 3 notifications | 2 hours | 6.00 hours | 464.64 |
| —(d) Railroad maintenance of data base of all safety relevant hazards encountered after product is placed in service. | 754 railroads | 3 databases | 2 hours | 6.00 hours | 464.64 |
| —(d)(1) Written report to FRA disclosing frequency of safety-relevant hazards for product exceeding threshold set forth in Safety Analysis. | 754 railroads | 1 written report | 2 hours | 2.00 hours | 154.88 |

| CFR section [1] | Respondent universe | Total annual responses | Average time per responses | Total annual burden hours | Total cost equivalent [2] |
|---|---|---|---|---|---|
| 229.315(b)—Railroad maintenance of Operations and Maintenance Manual containing all documents related to installation, maintenance, repair, modification, & testing of a product subject to this part. | 754 railroads | 3 filings of manuals | 1 minute | .05 hour | 3.87 |
| —(c) Configuration management control plan. | 754 railroads | 3 filings of revised plans. | 1 minute | .05 hour | 3.87 |
| 229.317(a)—Training and qualification program—Establishment and implementation of training qualification program for products subject to this subpart. | 754 railroads | 90 filings of new or revised training programs. | 1 minute | 1.50 hours | 116.16 |
| —(b) Employees trained under RR program. | 754 railroads | 10,000 trained employees' records. | 1 minute | 166.67 hours | 12,906.92 |
| —(f) Periodic refresher training of employees. | 754 railroads | 1,000 re-trained employees' records. | 1 minute | 16.67 hours | 1,290.92 |
| —(g) RR regular and periodic evaluation of effectiveness of its training program. | 754 railroads | 90 evaluations | 2 hours | 3.00 hours | 232.32 |
| —(h) RR record of individuals designated as qualified under this section. | 754 railroads | 10,000 electronic records. | 1 minute | 166.67 hours | 12,906.92 |
| Total [4] | 754 railroads | 8,829,303 responses | N/A | 232,348 hours | 17,585,665 |

*Total Estimated Annual Responses:* 8,829,303.

*Total Estimated Annual Burden:* 232,348 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $17,585,665.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that a respondent is not required to respond to, conduct, or sponsor a collection of information that does not display a currently valid OMB control number.

[1] The current inventory exhibits a total burden of 3,815,751 hours while the total burden of this notice is 232,348 hours. As part of its review of this ICR renewal, FRA determined many of the previous estimates were preliminary, outdated, or duplicative. Moreover, FRA removed locomotive safety requirements outside the scope of the PRA, thus decreasing the total estimates accordingly in this notice.

[2] The dollar equivalent cost is derived from the Surface Transportation Board's 2020 Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.

[3] FRA is proposing to create a new form for use by passenger railroads, Form F 6180–49AP (Passenger Locomotive Inspection and Repair Record), under OMB Control Number 2130–0035. Once the new form is approved, FRA will move this under the proposed 49 CFR 229.22 of OMB 2130–0035.

[4] Totals may not add due to rounding.

*Authority:* 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Acting Chief Counsel.*

[FR Doc. 2021–17982 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA 2021–0008]**

### Agency Information Collection Activity Under OMB Review

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

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

**DATES:** Comments must be submitted on or before September 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

*Comments are Invited On:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov.*

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On April 30, 2021 FTA published a 60-day notice (86 FR 23030) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*OMB Control Number:* 2132–0572.

*Type of Request:* Renewal of a previously approved information collection.

*Abstract:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Federal Transit Administration and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered is not used for the purpose of substantially informing influential policy decisions; and
- Information gathered yields qualitative information; the collections are not designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

*Current Action:* Extension without change of a currently approved collection.

*Respondents:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

*Estimated Total Annual Respondents:* 10,000.

*Estimated Annual Burden on Respondents:* 7,582 hours.

*Frequency:* Annual.

**Nadine Pembleton,**

*Director Office of Management Planning.*

[FR Doc. 2021–17970 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA 2021–0009]**

### Agency Information Collection Activity Under OMB Review

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

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

**DATES:** Comments must be submitted on or before September 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

*Comments are Invited On:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590 (202) 366–0354 or *tia.swain@dot.gov.*

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On May 4, 2021 FTA published a 60-day notice (86 FR 23781) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

*Title:* Clean Fuels Grant Program.

*OMB Control Number:* 2132–0573.

*Type of Request:* The Clean Fuels Grant Program was developed to assist non-attainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). The program also supported emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies. The Clean Fuels Grant Program was repealed under the Moving Ahead for Progress in the 21st Century Act (MAP–21). However, funding previously authorized for programs repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated.

*Respondents:* State and local government, business or other for-profit institutions, and non-profit institutions.

*Estimated Total Annual Respondents:* 4.

*Estimated Total Burden Hours per Respondent:* 2 hours.

*Estimated Annual Burden on Respondents:* 8 hours.

*Frequency:* Annually.

**Nadine Pembleton,**

*Director Office of Management Planning.*

[FR Doc. 2021–17969 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. FTA 2021–0011]**

### Request for Information on Transit Safety Concerns

**AGENCY:** Federal Transit Administration, United States Department of Transportation (DOT).

**ACTION:** Notice of extension of comment period.

**SUMMARY:** The Federal Transit Administration (FTA) is extending the comment period for the request for information (RFI) regarding FTA's Public Transportation Safety Program (Safety Program), which was published on July 15, 2021, with the original comment period closing on August 16, 2021.

**DATES:** Comments are requested by September 22, 2021.

**ADDRESSES:** You may file comments identified by docket number FTA–2021–0011 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

*Instructions:* For detailed instructions on submitting comments, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

*Privacy Act:* Except as provided below, all comments received into the docket will be made public in their entirety. The comments will be searchable by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You should not include information in your comment that you do not want to be made public. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or at *https://www.transportation.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Ray Biggs, Office of Transit Safety and Oversight—Safety Risk Management and Assurance Division, 1200 New Jersey Avenue SE, Mail Stop TSO–10, Washington, DC 20590, (202) 366–7460 or *Ray.Biggs@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In a letter submitted to the docket dated August 11, 2021, the American Public Transportation Association (APTA), on behalf of more than 1,300 member organizations, requested a 60-day extension of the comment period seeking input on public transit safety concerns published in the **Federal Register** on July 15, 2021 (86 FR 37400). As justification for this extension, APTA cited increased grant activity, the recent passage of an infrastructure bill, and ongoing responses to the COVID–19 pandemic as pulling transit systems in many directions. APTA believes an extension of time would facilitate its members' ability to formulate thoughtful and proactive information responsive to FTA's request for information.

Given the importance of public transportation safety and the need for a more fulsome dialogue on upcoming safety needs and priorities, FTA believes an extension of time is justified. Although APTA requested FTA extend the comment period for 60 additional days, commenters have already had 30 days in which to review and consider the questions posed in the RFI, and FTA believes an additional 30 days in which to submit comments is adequate, given FTA's desire to move forward expeditiously with this important safety initiative.

FTA is not republishing the Questions to the Public in this document. Instead, please refer to the July 15, 2021 RFI (86 FR 37400) to view the original questions regarding safety concerns and issues recommended for additional assessment and potential action at the Federal level.

**Public Participation**

*How do I prepare and submit comments?*

To ensure that your comments are filed correctly, please include the docket number provided [FTA–2021–0011] in your comments.

Please submit your comments, including any attachments, to the docket following the instructions given above under **ADDRESSES**. Please note, if you are submitting comments electronically as a PDF (Adobe) file, these documents must be scanned using an Optical Character Recognition process, thus allowing the Agency to search and copy certain portions of submissions. If submitting via mail, hand delivery, or courier, please provide two printed copies.

*How can comments submitted by other people be read?*

Comments received may be read at the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. The hours of the docket are indicated above in the same location. Comments may also be viewed on the internet, identified by the docket number at the heading of this notice, at *http://www.regulations.gov.*

Please note, the RFI will serve as a planning document. The RFI should not be construed as policy, a solicitation for applications, or an obligation on the part of the Government.

**Gail Lyssy,**

*Acting Associate Administrator for Safety.*

[FR Doc. 2021–18066 Filed 8–20–21; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to the Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden related to the application for exemption from Social Security and Medicare taxes and waiver of benefits.

**DATES:** Written comments should be received on or before October 22, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits.

*OMB Number:* 1545–0064.

*Regulation Project/Form Number:* Form 4029.

*Abstract:* Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under Internal Revenue Code sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

*Current Actions:* There is no change to the burden previously approved.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Responses:* 3,754.

*Estimated Time per Respondent:* 61 min.

*Estimated Total Annual Burden Hours:* 3,792.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic,

mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: August 18, 2021.

**Ronald J. Durbala,**

*IRS Tax Analyst.*

[FR Doc. 2021–18097 Filed 8–20–21; 8:45 am]

**BILLING CODE 4830–01–P**

## UNIFIED CARRIER REGISTRATION PLAN

### Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board Subcommittee Meeting

**TIME AND DATE:** August 26, 2021, 12:00 p.m. to 2:00 p.m., Eastern time.

**PLACE:** This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 910 8157 8996, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/j/91081578996.*

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Education and Training Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

**Proposed Agenda**

I. Call to Order—Subcommittee Chair

The Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—Subcommittee Chair

*For Discussion and Possible Subcommittee Action*

The Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes from the July 22, 2021 Subcommittee Meeting—Subcommittee Chair

*For Discussion and Possible Subcommittee Action*

Draft minutes from the July 22, 2021 Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Update of Changes Made to the Audit Module Approved at the July 22, 2021 Subcommittee Meeting—UCR Operations Director

The UCR Operations Director will update the Subcommittee on changes made to the Audit Module approved at the July 22, 2021 Subcommittee meeting.

VI. New Module Development Discussion and Possible Approval—Subcommittee Chair and UCR Operations Director

*For Discussion and Possible Subcommittee Action*

The Subcommittee will discuss possible subject matter for new module development. The Subcommittee may take action to approve new module development.

VII. Other Business—Subcommittee Chair

The Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

VIII. Adjournment—Subcommittee Chair

The Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, August 18, 2021 at: *https://plan.ucr.gov.*

**CONTACT PERSON FOR MORE INFORMATION:** Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

**Alex B. Leath,**

*Chief Legal Officer, Unified Carrier Registration Plan.*

[FR Doc. 2021–18185 Filed 8–19–21; 4:15 pm]

**BILLING CODE 4910–YL–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Genomic Medicine Program Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act 5 U.S.C. App. 2, that a meeting of the Genomic Medicine Program Advisory Committee (the Committee) will be held virtually on Wednesday, September 29, 2021. The meeting will begin at 11:30 a.m. EDT and adjourn at 3:30 p.m. EDT. The meeting is open to the public via Webex *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m6736a5cdd10c19acb461d7de4d05eec6* password: n4XHwEk9y$8 or by phone at call-in +14043971596, meeting code: 1990514106##.

The Committee's purpose is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care for Veterans and enhance the development of tests and treatments for diseases particularly relevant to Veterans.

On September 29, 2021, the Committee will receive updated briefings on various VA research programs, including the Million Veteran Program (MVP), to ascertain the program's progress in the areas of participant recruitment, data generation and storage, and data access. The Committee will also receive updates from ongoing MVP research, including a collaboration with the Department of Energy on suicide genetics, an update on precision oncology, and the VA Data Commons framework. Additionally, the Committee will discuss and explore potential recommendations for the next annual report.

Public comments will be received at 3:00 p.m. EDT and are limited to 5 minutes each. Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record to Jennifer Moser, Designated Federal Officer, Office of Research and Development (14RD), 810 Vermont Avenue NW, Washington, DC 20420, or at *Jennifer.Moser@va.gov.* In the communication, writers must identify themselves and state the organization, association, or person(s) they represent. Any member of the public who wishes to attend the teleconference should RSVP to Jennifer Moser at 202–510–4253 no later than close of business, September 23, 2021, at the phone number or email address noted above.

Dated: August 17, 2021.

**LaTonya L. Small,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2021–17946 Filed 8–20–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0503]**

### Agency Information Collection Activity: Veterans Mortgage Life Insurance Change of Address Statement

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before October 22, 2021.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov* Please refer to ''OMB Control No. 2900–0503'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0503'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Authority:* Public Law 104–13; 44 U.S.C. 3501–3521.

*Title:* Veterans Mortgage Life Insurance Change of Address Statement (VA Form 29–0563)

*OMB Control Number:* 2900–0503.

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

*Abstract:* The Veterans Mortgage Life Insurance Change of Address Statement solicits information needed to inquire about a veteran's continued ownership of the property issued under Veterans Mortgage Life Insurance when an address change for the veteran is received. The information obtained is used in determining whether continued Veterans Mortgage Life Insurance coverage is applicable since the law granting this insurance provides that coverage terminates if the veteran no longer owns the property. The information requested is required by law, 38 U.S.C. Section 2106. This form expired due to high volume of work and staffing changes.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 8 hours.

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 100.

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. 2021–17933 Filed 8–20–21; 8:45 am]

**BILLING CODE 8320–01–P**

# Reader Aids

**Federal Register**

Vol. 86, No. 160

Monday, August 23, 2021

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| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6050** |

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## FEDERAL REGISTER PAGES AND DATE, AUGUST

41381–41698 ..... 2
41699–41888 ..... 3
41889–42680 ..... 4
42681–43074 ..... 5
43075–43380 ..... 6
43381–43582 ..... 9
43583–43902 ..... 10
43903–44256 ..... 11
44257–44572 ..... 12
44573–44772 ..... 13
45621–45854 ..... 16
45855–46100 ..... 17
46101–46578 ..... 18
46579–46756 ..... 19
46757–46950 ..... 20
46951–47204 ..... 23

## CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 2 CFR

200 ..... 44573

### 3 CFR

**Proclamations:**
10237 ..... 43903
10238 ..... 46101

**Executive Orders:**
14037 ..... 43583
14038 ..... 43905

**Administrative Orders:**
Memorandums:
Memorandum of August 6, 2021 ..... 43587
Memorandum of August 17, 2021 ..... 46759
Memorandum of August 18, 2021 ..... 46951
Notices:
Notice of August 6, 2021 ..... 43901
Presidential Determinations:
No. 2021–10 of August 10, 2021 ..... 45619
No. 2021–11 of August 11, 2021 ..... 46757

### 5 CFR

315 ..... 46103
316 ..... 46103
330 ..... 46103

**Proposed Rules:**
1630 ..... 44642

### 6 CFR

5 ..... 44574
27 ..... 41889

### 7 CFR

205 ..... 41699
275 ..... 44575
407 ..... 42681
457 ..... 45855
761 ..... 43381
762 ..... 43381
764 ..... 43381
765 ..... 43381
766 ..... 43381
769 ..... 43381
932 ..... 44257
985 ..... 44587
993 ..... 44259
1470 ..... 41702

**Proposed Rules:**
800 ..... 46606
915 ..... 44286
925 ..... 44644
930 ..... 44647
944 ..... 44286
959 ..... 42748
980 ..... 42748

### 8 CFR

212 ..... 44593
214 ..... 44593
245 ..... 44593
274a ..... 44593

**Proposed Rules:**
208 ..... 46906
212 ..... 47025
235 ..... 46906
1003 ..... 46906
1208 ..... 46906
1235 ..... 46906

### 9 CFR

92 ..... 45621
93 ..... 45621
94 ..... 45621
95 ..... 45621
98 ..... 45621
130 ..... 45621

### 10 CFR

Ch. I ..... 43397
15 ..... 44594
52 ..... 44262
72 ..... 42681, 44262, 44594
170 ..... 44594
171 ..... 44594
431 ..... 46579

**Proposed Rules:**
20 ..... 45923
50 ..... 44290
51 ..... 47032
72 ..... 42751, 44296, 44650
73 ..... 43599
429 ..... 43120
430 ..... 41759, 43429, 43970, 44298, 46611, 46793
431 ..... 43430, 46330, 46793

### 11 CFR

**Proposed Rules:**
104 ..... 42753
109 ..... 42753

### 12 CFR

7 ..... 42686
1026 ..... 44267, 46953

**Proposed Rules:**
210 ..... 43143
330 ..... 41766
702 ..... 45824
703 ..... 45824

### 14 CFR

25 ..... 46958
39 ..... 42687, 42689, 42689, 42691, 42694, 42696, 42698, 42701, 43075, 43404, 43406, 43409, 43909, 44600, 45855, 45858, 46109, 46111, 46113, 46761, 46762, 46766, 46769,

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List August 9, 2021**

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