FEDERAL REGISTER

Vol. 86 Friday

No. 197 October 15, 2021

Pages 57321–57524

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 86 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:	
Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Contents

Federal Register

Vol. 86, No. 197

Friday, October 15, 2021

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

10285.....57321
10286.....57335
10287.....57349

5 CFR

532.....57355

7 CFR

966.....57356

10 CFR

Proposed Rules:

430.....57378

17 CFR

Proposed Rules:

232.....57478
240.....57478
249.....57478
270.....57478
274.....57478

33 CFR

165 (2 documents) 57378

39 CFR

Proposed Rules:

3055.....57385

40 CFR

Proposed Rules:

52.....57388

47 CFR

27.....57369

Proposed Rules:

52.....57390
64.....57390

48 CFR

552.....57372

Proposed Rules:

Ch. 1 57404

50 CFR

17.....57373
648.....57376

Federal Register
Vol. 86, No. 197
Friday, October 15, 2021

Presidential Documents

Title 3—

The President

Proclamation 10285 of October 8, 2021

Bears Ears National Monument

By the President of the United States of America

A Proclamation

President Barack Obama's establishment of the Bears Ears National Monument in Proclamation 9558 of December 28, 2016, represented the culmination of more than a century of efforts to protect the ancestral homeland of Tribal Nations that all refer to the area by the same name—Hoon'Naqvut (Hopi), Shash Jaa' (Navajo), Kwiyagatu Nukavachi (Ute), and Ansh An Lashokdiwe (Zuni): Bears Ears. Preserving the sacred landscape and unique cultural resources in the Bears Ears region was an impetus for passage of the Antiquities Act in 1906. As early as 1904, advocates for protection of cultural landscapes described for the Congress the tragedy of the destruction of objects of historic and scientific interest across the American Southwest and identified the Bears Ears region as one of seven areas in need of immediate protection. Nevertheless, for more than 100 years, indigenous people, historians, conservationists, scientists, archaeologists, and other groups advocated unsuccessfully for protection of the Bears Ears landscape. It was not until the Hopi Tribe, Navajo Nation, Ute Indian Tribe of the Uintah and Ouray Reservation, Ute Mountain Ute Tribe, and Pueblo of Zuni united in a common vision to protect these sacred lands and requested permanent protection from President Obama that Bears Ears National Monument became a reality. Few national monuments more clearly meet the Antiquities Act's criteria for protection than the Bears Ears Buttes and surrounding areas. This proclamation confirms, restores, and supplements the boundaries and protections provided by Proclamation 9558, including the continued reservation of land added to the monument by Proclamation 9681 of December 4, 2017.

As Proclamation 9558 recognizes, the greater Bears Ears landscape, characterized by deep sandstone canyons, broad desert mesas, towering monoliths, forested mountaintops dotted with lush meadows, and the striking Bears Ears Buttes, has supported indigenous people of the Southwest from time immemorial and continues to be sacred land to the Hopi Tribe, Navajo Nation, Ute Indian Tribe of the Uintah and Ouray Reservation, Ute Mountain Ute Tribe, and Pueblo of Zuni. Approximately two dozen other Tribal Nations and Pueblos have cultural ties to the area as well.

Describing as much as 13,000 years of human occupation of the Bears Ears landscape, Proclamation 9558 contextualizes the compelling need to protect one of the most extraordinary cultural landscapes in the United States. The proclamation describes the landscape's unique density of significant cultural, historical, and archaeological artifacts spanning thousands of years, including remains of single family homes, ancient cliff dwellings, large villages, granaries, kivas, towers, ceremonial sites, prehistoric steps cut into cliff faces, and a prehistoric road system that connected the people of Bears Ears to each other and possibly beyond. Proclamation 9558 also describes the cultural significance and importance of the area, exemplified by the petroglyphs, pictographs, and recent rock writings left by the indigenous people that have inhabited the area since time immemorial.

In addition to cultural and historic sites, Proclamation 9558 describes the Bears Ears landscape's unique geology, biology, ecology, paleontology, and

topography. The proclamation identifies geologic formations rich with fossils that provide a rare and relatively complete picture of the paleoenvironment, striking landscapes, unique landforms, and rare and important plant and animal species. While not objects of historic and scientific interest designated for protection, the proclamation also describes other resources in the area, historic grazing, and world class outdoor recreation opportunities—including rock climbing, hunting, hiking, backpacking, canyoneering, whitewater rafting, mountain biking, and horseback riding—that support a booming travel and tourism sector that is a source of economic opportunity for local communities.

To protect this singular and sacred landscape, President Obama reserved approximately 1.35 million acres through Proclamation 9558 as the smallest area compatible with protection of the objects identified within the boundaries of the monument. He also established the Bears Ears Commission to ensure that management of the monument would be guided by, and benefit from, expertise of Tribal Nations and traditional and historical knowledge of the area.

On December 4, 2017, President Donald Trump issued Proclamation 9681 to reduce the lands within the monument by more than 1.1 million acres. In doing so, Proclamation 9681 removes protection from objects of historic and scientific interest across the Bears Ears landscape, including some objects that Proclamation 9558 specifically identifies by name for protection. Multiple parties challenged Proclamation 9681 in Federal court, asserting that it exceeds the President's authority under the Antiquities Act.

Restoring the Bears Ears National Monument honors the special relationship between the Federal Government and Tribal Nations, correcting the exclusion of lands and resources profoundly sacred to Tribal Nations, and ensuring the long-term protection of, and respect for, this remarkable and revered region. Given the unique nature and cultural significance of the objects identified across the Bears Ears landscape, the threat of damage and destruction to those objects, their spiritual, cultural, and historical significance to Tribal Nations, and the insufficiency of the protections afforded in the absence of Antiquities Act protections, the reservation described below is the smallest area compatible with the proper care and management of the objects of historic and scientific interest named in this proclamation and Proclamation 9558.

The Bears Ears landscape—bordered by the Colorado River to the west, the San Juan River and the Navajo Nation to the south, low bluffs and high mesas to the east and north, and Canyonlands National Park to the northwest, and brimming with towering sandstone spires, serpentine canyons, awe-inspiring natural bridges and arches, as well as the famous twin Bears Ears Buttes standing sentinel over the sacred region—is not just a series of isolated objects, but is, itself, an object of historic and scientific interest requiring protection under the Antiquities Act. Bears Ears is sacred land of spiritual significance, a historic homeland, and a place of belonging for indigenous people from the Southwest. Bears Ears is a living, breathing landscape, that—owing to the area's arid environment and overall remoteness, as well as the building techniques that its inhabitants employed—retains remarkable and spiritually significant evidence of indigenous use and habitation since time immemorial, including from the Paleoindian Period, through the time of the Basketmakers and Ancestral Pueblos, to the more recent Navajo and Ute period, and continuing to this day. There are innumerable objects of historic or scientific interest within this extraordinary landscape. Some of the objects are also sacred to Tribal Nations, are sensitive, rare, or vulnerable to vandalism and theft, or are dangerous to visit and, therefore, revealing their specific names and locations could pose a danger to the objects or the public. The variety, density, and prevalence of these objects, such as prehistoric roads, structures, shrines, ceremonial sites, graves, pots, baskets, tools, petroglyphs, pictographs, and items of clothing, all contribute

to the uniqueness of this region and underscore its sacred nature and living spiritual significance to indigenous people.

Many of the Tribal Nations that trace their ancestral origin to this area and continue their spiritual practices on these lands today view Bears Ears as a part of the personal identity of their members and as a cultural living space—a landscape where their traditions began, where their ancestors engaged in and handed down cultural practices, and where they developed and refined complex protocols for caring for the land. The Bears Ears region is also a tangible location that is integral to indigenous ceremonial practices, cultural traditions, and the sustainment of the daily lives of indigenous peoples. Since time immemorial, the lands of the Bears Ears region have fostered indigenous identity and spirituality. Indigenous people lived, hunted, gathered, prayed, and built homes in the Bears Ears region. As a result, each geographic subregion and the mountains, canyons, mesa tops, ridges, rivers, and streams therein that make up the Bears Ears landscape hold cultural significance. These individual locales come together as objects of historic and scientific interest—many of which have spiritual significance to indigenous people and are located across this living landscape—to tell stories, facilitate the practice of traditions, and serve as a mnemonic device that elders use to teach younger generations where they came from, who they are, and how to live. Resources found throughout the Bears Ears region, including wildlife and plants that are native to the region, continue to serve integral roles in the development and practice of indigenous ceremonial and cultural lifeways. From family gatherings, dances, and ceremonies held on these sacred lands, to gathering roots, berries, firewood, pinon nuts, weaving materials, and medicines across the region, Bears Ears remains an essential landscape that members of Tribal Nations regularly visit to heal, practice their spirituality, pray, rejuvenate, and connect with their history.

The Bears Ears region is also important to, and shows recent evidence of, non-Native migrants to the area. From the smoothed-over surfaces of the Hole-in-the-Rock Trail to the historic cattle-ranching cabins, and the convoluted series of passages and hideouts used by men like Butch Cassidy, the Sundance Kid, and other members of the Wild Bunch on the Outlaw Trail, including Hideout Canyon, the Bears Ears landscape conveys the story of westward expansion of European Americans and the settlement of Latter-day Saint communities in southern Utah. Hispanic sheep herders from New Mexico also migrated into this area during the late 1800s, and many of their descendants continue to live in local communities.

Despite millennia of human habitation, the Bears Ears landscape remains one of the most ecologically intact and least-roaded regions in the contiguous United States. As a result, the area continues to provide habitat to a variety of threatened, endangered, sensitive, endemic, or otherwise rare species of wildlife, fish, and plants. The area also contains a diverse array of species that benefit from the preservation of the landscape's intact ecosystems.

The Bears Ears landscape also tells the stories of epochs past. The area's exposed geologic formations provide a continuous record of vertebrate life in North America as well as a rich history of invertebrate fossils. The Chinle Formation, and the Wingate, Kayenta, and Navajo Formations above it, demonstrate how the Triassic Period transitioned into the Jurassic Period and provide critical insight into both how dinosaurs dominated terrestrial ecosystems and how our mammalian ancestors evolved. The discovery of several taxa, including a prosauropod that gets its name from a Navajo word tied to the region where it was found, the archosauromorph *Crosbysaurus harrisae*, and a unique phytosaur, have occurred exclusively within Bears Ears or have significantly extended an extinct species' known range. While paleontologists have only recently begun to systematically survey and study much of the fossil record in this region, experts are confident

that scientifically important paleontological resources remain to be discovered, and future exploration will greatly expand our understanding of prehistoric life on the Colorado Plateau.

The landscape itself is composed of several areas, each of which is unique and an object of scientific and historic interest requiring protection under the Antiquities Act. Near the center is the Bears Ears Buttes and Headwaters, the location of the iconic twin buttes, which soar over the surrounding landscape and maintain watch over the ancestral home of numerous Tribal Nations. Containing dense fir and aspen forests that provide firewood to heat homes as well as powerful medicines and habitat for wild game species, Tribal Nations view the high elevation oasis as the key to life in the Bears Ears region. The Bears Ears Buttes also hold historical significance to the Navajo people, as the landscape and natural cliff dwellings served as hiding places to escape the United States military during the forced Long Walk, where more than 11,000 Navajo were marched up to 450 miles on foot to internment camps in Fort Sumner, New Mexico. Many Navajo hid in the remote canyons to avoid the forced removal from their traditional homelands in the Southwest by the United States from 1864 to 1868.

In the northern part of the Bears Ears landscape lies Indian Creek, the home of a world-renowned canyon characterized by sheer red cliffs and spires of exposed and eroded layers of Navajo, Kayenta, Wingate, and Cedar Mesa Sandstone, including the iconic North and South Six-Shooter Peaks. The canyon includes famous vertical cracks striating its sandstone walls and the area provides important habitat for a multitude of plant and animal species. Indian Creek's palisades provide eyries for peregrine falcons and potential nesting sites for bald and golden eagles, and the Lockhart Basin area and Donnelly Canyon contain Mexican spotted owl habitat. The Indian Creek area further provides critical winter grounds for big-game species such as mule deer, elk, and bighorn sheep and potential habitat for endangered fish and threatened plant species. The prominent Bridger Jack and Lavender Mesas are home to largely unaltered relict plant communities composed of pinyon-juniper woodlands interspersed with small sagebrush islands. It is also in Indian Creek that one can find Newspaper Rock, a massive petroglyph panel displaying a notable concentration of rock writings from persons of the Basketmaker and Ancestral Pueblo periods, the Ute and Navajo people who still live in the Four Corners area and beyond, and early settlers of European descent. Indian Creek also contains possible evidence of trade with cultures extending into Mesoamerica, including a thousand-year-old ornamental sash found in the area made from azure and scarlet macaw feathers as well as a petroglyph featuring a macaw-like bird figure. Shay Canyon is a side canyon that houses extensive, well-preserved petroglyph panels from multiple prehistoric periods. The panels contain a unique rock writing style that is believed to be both Freemont and Ancestral Pueblo in origin. Harts Point is an escarpment that provides spectacular views of the Indian Creek Canyon. These mesa tops also contain evidence of historic connections of indigenous people to the region. Additionally, Indian Creek provides fossilized trackways of early tetrapods and fossilized traces of marine and aquatic creatures such as clams, crayfish, fish, and aquatic reptiles dating to the Triassic Period.

Southwest of Indian Creek and geographically nestled between the Needles District of Canyonlands National Park, the Dark Canyon Wilderness area, and the Glen Canyon National Recreation Area, lie Beef Basin and Fable Valley, areas characterized by well-preserved Ancestral Pueblo surface sites—including freestanding Pueblo masonry structures and towers—as well as petroglyphs and pictographs. The areas are unique in their high concentration of large, mesa-top Pueblo structures. Sites in this region may also provide evidence of some of the furthest north migration of Pueblo in the Mesa Verde region.

Just south of Indian Creek, the westernmost edge of the Abajo Mountains forms the eastern boundary of the Bears Ears landscape. An island laccolith

series of peaks and domes known also as the Blue Mountains due to the appearance of their heavily forested slopes contrasted against the red desert that surrounds them, the Abajo Mountains are rich in wildlife and home to several rare and sensitive plant species. As a result of the breadth of species, the Abajo Mountains have long been a traditional hunting ground for the indigenous people that have lived in the area and are held sacred by a number of Tribal Nations, including the Navajo Nation, Pueblo of Zuni, and Ute Indian Tribes. These peaks represent the highest elevations in the Bears Ears landscape and provide unbroken views of the entire region.

South of Beef Basin and Indian Creek, the landscape contains a number of sandstone canyons that drain the northern edge of the Abajo Mountains and Elk Ridge, including the Tuerto, Trough, Ruin, and North Cottonwood Canyons, at the bottom of which runs a perennial creek. Ancestral Pueblo sites within this area have special significance to the Pueblos of New Mexico, who identify these sites as part of their ancestral footprints that extend their traditional territory north of the Abajo Mountains. The area, which is composed of both Cedar Mesa Sandstone and Chinle Formation deposits, has a very high potential for Permian and Triassic fossils.

The South Cottonwood Canyon region, characterized by prominent sandstone escarpments surrounded by forests of pinyon, juniper, and Gambel oak, interspersed with stands of ponderosa pine and mixed conifers, is situated west of the Abajo Mountains and south of the prominent sandstone towers known as the Chippean Rocks. The isolated area contains intact cultural landscapes of early Ancestral Pueblo communities. Some sites are organized as a larger central village surrounded by smaller family-sized dwellings, while others are large and inaccessible granaries. This region is home to a diversity of wildlife, including Townsend's big-eared bats, beavers, and ringtail cats, as well as the Cliff Dwellers Pasture Research Natural Area, an ungrazed box canyon with a unique vegetative community and an imposing sandstone arch and natural bridge. The area also contains excellent big game habitat and is considered prime mule deer, elk, and black bear hunting grounds.

Further west, South Cottonwood Canyon is home to a unique density of Pueblo I to early Pueblo II village sites that are considered important to both archaeologists and Tribal Nations. One site, a collapsed two-story block masonry structure that appears to be an early version of a great house, was built during a time when the development of this kind of community structure was only beginning in Chaco Canyon. More recently, the South Cottonwood Canyon area proved critical to the survival of the White Mesa Ute during Anglo settlement of southern Utah. Paleontologically, there is high potential fossil yield on both the west side of the area, which contains portions of the Triassic Period Chinle and Moenkopi Formations, and the east side, which is composed of Jurassic Period Glen Canyon Group Kayenta Formation. The area also provides critical habitat for Mexican spotted owls, peregrine falcons, golden eagles, and spotted bats.

The Dark Canyon, Dry Mesa complex, located between Beef Basin and White Canyon, is wild and remote. In Dark Canyon—a canyon system that includes Peavine, Woodenshoe, and other minor tributaries—rock walls, which tower 3,000 feet above the canyon floor, provide a sense of solitude and isolation from the surrounding mesa tops. The canyon system, one of the only entirely intact and protected canyons from its headwaters on the Colorado Plateau to its confluence with the Colorado River, includes numerous hanging gardens, springs, and riparian areas and provides habitat for a wide range of wildlife, including known populations of Mexican spotted owl. Dry Mesa is relatively flat with stands of ponderosa pine, oak, and pinyon and juniper that provide foraging habitat for golden eagles and peregrine falcons. Many Tribal Nations have strong connections to sites in the area from three specific time periods: ancient hunter-gatherers during the Archaic period, Ancestral Pueblos during the Pueblo III period, and

finally, Navajo, Ute, and Paiute families just before and during European migration into the Four Corners area. Visitors to the Dark Canyon Wilderness area will find the Doll House, a fully-intact and well-preserved single-room granary. Located at the bottom of Horse Pasture Canyon and Dark Canyon, visitors will also find Scorup Cabin, a line cabin originally built in Rig Canyon and later moved to its current location, that cowboys used as a summer camp while running cattle in the area. The area also contains exposures of Permian Period Cutler Group deposits that have a high potential to contain both vertebrate and invertebrate fossils.

The White Canyon region, west of Dark Canyon, is a remote area featuring an extensive complex of steep and narrow canyons cut through light-colored Cedar Mesa Sandstone. Once used by outlaws to evade authorities, the area's slot canyons, including the Black Hole, Fry Canyon, and Cheesebox Canyon, now draw adventurers in search of multi-day, technical canyoneering opportunities. The entire White Canyon area has a rich paleontological history. Research in the area is ongoing, but recent discoveries of track sites in the Triassic Moenkopi Formation and an assemblage of invertebrate burrows suggest that a diverse fauna once thrived here. Mollusks, phytosaurs, and possible theropod and ornithischian fossils have also been found in White Canyon.

Located between the Abajo Mountains and the Colorado River, the high plateau of Elk Ridge provides stunning views of the surrounding canyons and the Bears Ears Buttes to the south. Visitors passing through the Notch, a naturally occurring narrow pass between north and south Elk Ridge, are treated to spectacular vistas of Dark Canyon to the west and Notch Canyon to the east. The area's higher elevations, which contain pockets of ancient Engelmann spruce, rare stands of old-growth ponderosa pine, aspen, and subalpine fir, and a genetically distinct population of Kachina daisy, provide welcome respite from the higher temperatures found in the region's lower elevations, especially during the summer. There is evidence that indigenous people have hunted and gathered plants on Elk Ridge for at least 8,000 years, a practice that continues today and is considered sacred by the Navajo Nation. Elk Ridge also has a long history of livestock grazing by Navajo and Ute families and later Anglo settlers. While the mesa top is primarily dry, water naturally occurs at the area's seeps and springs, as well as the ephemeral Duck Lake, a seasonal wetland located on top of Elk Ridge that results from snowmelt. The upper reaches of the ridge also contain Upper Triassic formations with a high potential to contain fossils.

To the east of Elk Ridge lies a major system of canyons on National Forest System lands, including Hammond Canyon, Upper Arch Canyon, Texas Canyon, and Notch Canyon. This deeply incised canyon system is composed of stunning red sandstone walls, white pinnacles, lush green foliage, and several small waterfalls. Uniquely, the area also contains large sandstone towers and hoodoos in a forested setting. The Hammond Canyon area, which is central to the history of the White Mesa Utes, contains numerous Ancestral Pueblo sites, including cliff dwellings. Hammond Canyon also contains an Ancestral Pueblo village with structures and pottery from multiple Ancestral Pueblo periods. High fossil potential exists in both the Upper Triassic and Lower Jurassic Glen Canyon Sandstone of Hammond Canyon's lower half as well as the Permian Period Cedar Mesa Sandstone found in its upper half.

Just south of Elk Ridge, Arch Canyon is a 12-mile long box canyon containing numerous arches, including Cathedral Arch, Angel Arch, and Keystone Arch. The area is teeming with fossilized remains, including numerous specimens from the Permian and Upper Permian eras. Cliff dwellings and hanging gardens are located throughout the canyon. Arch Canyon Great House, which spans the Pueblo II and III periods and contains pictographs and petroglyphs ranging from the Archaic to the historic periods, is located at the canyon's mouth. A perennial stream that provides potential habitat for sensitive fish

species and for the threatened Navajo sedge is located in the canyon's bottom.

Mule Canyon, a 500-foot deep, 5-mile long chasm, is situated northeast of the Fish Creek area and southeast of the Bears Ears Buttes. Throughout the canyon, cliff dwellings and other archaeological sites are sheltered by rock walls composed of alternating layers of red and white sandstone. Among those are the stunning House on Fire, which has different masonry styles that indicate several episodes of construction and use. The area's rich archaeological history is also evidenced on the nearby tablelands, where the Mule Canyon Village site allows visitors to view the exposed masonry walls of ancient living quarters and a partially restored kiva. Recent research suggests that Ancestral Pueblos in this area may have cultivated a variety of plants that are uncommon across the wider landscape and persist to this day, such as the Four Corners potato, goosefoot, wolfberry, and sumac. Although similar cultivation may have been occurring near Ancestral Pueblo sites across the Bears Ears landscape, it appears to have been particularly prevalent in and around the Mule, South Cottonwood, Dry, Arch, and Owl Canyons.

Tilted at almost 20 degrees and running along a north-south axis from the foothills of the Abajo Mountains, past the San Juan River, and onto the Navajo Nation, the serrated cliffs of the Comb Ridge monocline are visible from space and have both spiritual and practical significance to many Tribal Nations. It is in this area that one can find a series of alcoves in Whiskers Draw that have sheltered evidence of human habitation for thousands of years, including the site where Richard Wetherill first identified what we know today as the Basketmaker people, as well as Milk Ranch Point, where early Ancestral Pueblo farmers found refuge when the climate turned hotter and dryer at lower elevations. Comb Ridge, flanked on the west by Comb Wash and on the east by Butler Wash, holds additional evidence of centuries of human habitation, including cliff dwellings, such as the well-known Butler Wash Village and Monarch Cave, kivas, ceremonial sites, and rock writings, like the Procession Panel, Wolfman Panel, and Lower Butler Wash Panel, a wall-sized mural depicting San Juan Anthropomorph figures dating to the Basketmaker period that is considered important for understanding the daily life and rituals of the Basketmaker people. Chacoan roads as well as the handholds and steps carved into cliff faces found in this area formed part of the region's migration system and are integral to the story of the Bears Ears landscape. The Comb Ridge area also contains a rich paleontological history, including an Upper Triassic microvertebrate site with greater taxonomic diversity than any other published site of the same nature in Utah, and the earliest recorded instance of a giant arthropod trackway in Utah. Paleontologists have also found phytosaur and dinosaur fossils from the Triassic Period and have identified new species of plant-eating crocodile-like reptiles and rich bonebeds of lumbering sauropods in the area.

South Cottonwood Wash is an extensive drainage just east of Comb Ridge that extends from the Abajo Mountains to the San Juan River near Bluff, Utah. The drainage contains at least three great houses as well as a number of alcove sites, and it has a high density of petroglyphs and pictographs, including a cave with more than 200 handprints in a variety of colors. There is also evidence of a Chacoan road that connected multiple great houses and kiva sites. These prehistoric transportation systems in the Bears Ears region are critical to understanding the trading patterns, economy, and social organization of ancient Pueblo communities and the other major cultural centers with whom they interacted, such as Chaco Canyon.

At the far southern end of the Bears Ears landscape lies Valley of the Gods, a broad expanse of sandstone monoliths, pinnacles, and other geological features of historic and scientific interest. Towering spires of red sandstone that rise from the valley floor are held sacred by the Navajo people, who view the formations as ancient warriors frozen in stone and places

of power in which spirits reside. The austere valley, which is noteworthy in both its geology and ecology, provides habitat for *Eucosma navajoensis*, an endemic moth that lives nowhere else. The Mars-like landscape also contains evidence of our own planet's distant past, including early tetrapod trackways, Paleozoic freshwater sharks, ray-finned fishes, lobe-finned fishes, giant primitive amphibians, and multiple unique taxa of mammal-like reptiles. Paleontologists have also uncovered notable plant macrofossils including ancestral conifers, giant horsetail-like plants, ferns the size of trees, and lycopsids (similar to modern clubmoss).

The San Juan River forms the southern boundary of the Bears Ears landscape. One of the four sacred rivers that Tribal Nations believe were established by the gods to act as defensive guardians over their ancestral lands, the river is closely tied to traditional stories of creation, danger, protection, and healing. The Lime Ridge Clovis site demonstrates that the history of human occupation within the river corridor dates back at least 13,000 years. The Sand Island Petroglyph Panel presents petroglyphs primarily from the Basketmaker through the Pueblo III periods as well as more modern Navajo and Ute carvings. There are also a number of Ancestral Pueblo structures that are accessible by river, such as River House. Nearby San Juan Hill was the last major obstacle for the Hole-in-the-Rock expedition and presents visible evidence of the weary expedition's effort to cross Comb Ridge, including parts of a road, wagon ruts, and an inscription at the top of the ridge. The river corridor also contains a number of unique geologic formations, such as the well-known balancing rock at Mexican Hat, and provides important habitat for the threatened yellow-billed cuckoo and the endangered southwestern willow flycatcher. The river itself is home to two endangered fish species: Colorado pikeminnow, the largest minnow in North America, which is believed to have evolved more than 3 million years ago, and the razorback sucker, the only member of its genus.

Cedar Mesa is located in the heart of the Bears Ears landscape, west of Comb Ridge and north of the San Juan River. Ranging from approximately 4,000 to 6,500 feet in elevation, the approximately 400-square mile plateau is of deep significance to Tribal Nations. Characterized by pinyon-juniper forests on the mesa tops and canyons along its periphery, the entirety of Cedar Mesa is an object of scientific and historic interest, providing a broader context for the individual resources found there. It is the density of world-class cultural resources found throughout the remote, sloping plateau and its numerous canyons that make Cedar Mesa truly unique. For example, an open-twined yucca fiber sandal believed to be more than 7,000 years old was discovered in a dry shelter located in a narrow slickrock canyon in Cedar Mesa. Moon House is an example of iconic Pueblo-decorated architecture and was likely the last occupied site on Cedar Mesa. On the top of the plateau, Chacoan roads connect several Ancestral Pueblo great houses that show architectural influence from the Chaco Canyon region as well as ceramics that demonstrate both historic and modern Pueblo connections. And in the heart of Cedar Mesa, a multi-room, multi-story great house contains kivas with distinctive Chacoan features that are much larger than kivas found elsewhere on Cedar Mesa. Today, Cedar Mesa is home to bighorn sheep, but fossil evidence in the area's sandstone has revealed large, mammal-like reptiles that burrowed into the sand to survive the blistering heat of the end of the Permian Period, when the region was dominated by a seaside desert. Later, during the Upper Triassic Period, seasonal monsoons flooded an ancient river system that fed a vast desert here. Salvation Knoll, a point from which lost Latter-day Saint pioneers were able to obtain their bearings on Christmas Day in 1879, is also located in the area.

Cedar Mesa is striated with deep chasms housing remarkably intact Ancestral Pueblo sites. John's Canyon and Slickhorn Canyon, which empty into the San Juan River in the Glen Canyon National Recreation Area to the south, contain numerous petroglyphs, pictographs, and Ancestral Pueblo structures built into elongated alcoves on buff-colored cliffs. Similarly, the canyons on the east side of Cedar Mesa hold a significant density of archaeological

sites providing a glimpse into the region's past, including rock writings and Ancestral Pueblo dwellings. The Citadel cliff dwelling is just one example of the striking Ancestral Pueblo sites located in Road Canyon, while other sites include painted handprints and evidence of daily life left by Ancestral Pueblos. Located to the north of Road Canyon, the Fish Canyon area contains a number of Pueblo structures. The Fish Canyon area also contains one of the few perennial streams in the area and an important potential habitat for the Mexican spotted owl. Finally, the rust-colored, 145-foot span of Nevills Arch awaits those who make the challenging trek down Owl Canyon. Opening to a height of 80 feet and named after Norman Nevills, the first boatman to take paying customers on the Colorado River through the Grand Canyon, the arch creates a striking window to the sky on the upper reaches of the canyon walls.

Grand Gulch, a mostly dry canyon that meanders for nearly 50 miles on the western edge of Cedar Mesa and is replete with thousands of cliff dwellings and rock writing sites, likely contains the highest concentration of Ancestral Pueblo sites on the Colorado Plateau. Initially occupied in the Basketmaker II and III periods, Grand Gulch's initial inhabitants left pictographs and constructed shallow pithouses and camps on the mesa top and dry shelters for storage. One pictograph dating from this time period depicting two large, anthropomorphic figures is of special religious significance to Tribal Nations. Grand Gulch also contains a multitude of Pueblo II to III sites and was one of the first prehistoric national historic districts designated on the National Register of Historic Places. The area contains the Turkey Pen site, which is believed to provide some of the earliest evidence of turkey domestication in North America, a pristine kiva in a remote canyon bend, and countless other unique Pueblo structures, such as Junction Village, a large Pueblo habitation site; Split Level Village, a multi-level Pueblo habitation; and Bannister House, a habitation consisting of two relatively intact structures and a spring at the base of the cliff face. Grand Gulch also contains unique artifacts, such as a tattoo needle, a site containing a multichromatic pictograph of a mask, important historic archaeological inscriptions from the Wetherill expedition, and a multitude of other rock writings.

Kane Gulch is a tributary canyon of Grand Gulch incised through Cedar Mesa Sandstone and clogged with house-sized boulders. The canyon houses an aspen grove—an uncommon occurrence at such elevations in the desert—and contains a number of archaeological sites that are perched on canyon walls high above cottonwood trees that provide welcomed shade to the riparian areas in the canyon bottom. Nearby, Bullet Canyon, which intersects with the upper reaches of Grand Gulch, also holds numerous structures, petroglyphs, pictographs, and other artifacts, such as the well-preserved Perfect Kiva—a partly restored kiva, accompanied by several rooms and other smaller structures.

To the west of Cedar Mesa, the Clay Hills, Red House Cliffs, and Mike's Canyon form the southwest corner of the Bears Ears landscape. This remote and rarely visited area remains largely unstudied by scientists. Tool- and arrowhead-making sites, dwellings, and granaries in the lower reaches of the canyons indicate that they sustained Archaic, Basketmaker, and Ancestral Pueblo cultures. The area's unforgiving topography, composed of expansive stretches of slickrock periodically interrupted by deep canyons, challenged Latter-day Saint settlers that traveled along the Hole-in-the-Rock Trail and left wheel ruts and other traces of pioneer life. The harsh ecosystem still supports a herd of desert bighorn sheep throughout the year, and in the canyon bottoms, including Mike's Canyon, intrepid beavers can be found in small areas of riparian habitat. The Clay Hills area contains the first discovery of vertebrate fossils from the Bears Ears region, which was also the first occurrence of a phytosaur identified in Utah.

Standing alone west of Cedar Mesa and adjacent to the Glen Canyon National Recreation Area, Mancos Mesa is likely the largest isolated slickrock mesa

in southern Utah. Covering approximately 180 square miles, Mancos Mesa's roughly triangular shape is bounded by towering cliffs, some reaching more than 1,000 feet high. The entire area is dominated by Navajo Sandstone and is incised with canyons, including Moqui Canyon, a 20-mile canyon with sheer walls rising over 600 feet. The mesa, an ecological island in the sky, contains a relict plant community that supports Native perennial grasses, shrubs, and some cacti. Mancos Mesa also contains archaeological remains dating back 2,000 years and spanning across the Basketmaker II and III and Pueblo I, II, and III periods.

Protection of the Bears Ears area will preserve its spiritual, cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this area remain for the benefit of all Americans. For more than 100 years, and sometimes predating the enactment of the Antiquities Act, Presidents, Members of Congress, Secretaries of the Interior, Tribal Nations, State and local governments, scientists, and local conservationists have understood and championed the need to protect the Bears Ears area. The area contains numerous objects of historic and scientific interest and also includes other resources that contribute to the social and economic well-being of the area's modern communities as a result of world-class outdoor recreation opportunities, including unparalleled rock climbing available at places like the canyons in Indian Creek; the paradise for hikers, birders, and horseback riders provided in areas like the canyons east of Elk Ridge; and other destinations for hunting, backpacking, canyoneering, whitewater rafting, and mountain biking, that are important to the increasing travel- and tourism-based economy in the region.

WHEREAS, section 320301 of title 54, United States Code (known as the ''Antiquities Act''), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected; and

WHEREAS, Proclamation 9558 of December 28, 2016, designated the Bears Ears National Monument in the State of Utah and reserved approximately 1.35 million acres of Federal lands as the smallest area compatible with the proper care and management of the objects of historic and scientific interest declared part of the monument; and

WHEREAS, Proclamation 9681 of December 4, 2017, modified the management direction of the Bears Ears National Monument and modified the boundaries to add approximately 11,200 new acres of Federal lands, and the objects of historic and scientific interest contained therein, and to exclude more than 1.1 million acres of Federal lands from the reservation, including lands containing objects of historic and scientific interest identified as needing protection in Proclamation 9558, such as Valley of the Gods, Hideout Canyon, portions of the San Juan River and Abajo Mountains, genetically distinct populations of Kachina daisy, and the *Eucosma navajoensis* moth; and

WHEREAS, December 4, 2017, was the first time that a President asserted that the Antiquities Act included the authority to reduce the boundaries of a national monument or remove objects from protection under the Antiquities Act since passage of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*); and

WHEREAS, the entire Bears Ears landscape is profoundly sacred to sovereign Tribal Nations and indigenous people of the southwest region of the United States; and

WHEREAS, I find that the unique nature of the Bears Ears landscape, and the collection of objects and resources therein, make the entire landscape

within the boundaries reserved by this proclamation an object of historic and scientific interest in need of protection under 54 U.S.C. 320301; and

WHEREAS, I find that all the historic and scientific resources identified above and in Proclamation 9558 are objects of historic or scientific interest in need of protection under 54 U.S.C. 320301; and

WHEREAS, I find that there are threats to the objects identified in this proclamation; and

WHEREAS, I find, in the absence of a reservation under the Antiquities Act, the objects identified in this proclamation and in Proclamation 9558 are not adequately protected by otherwise applicable law or administrative designations because neither provide Federal agencies with the specific mandate to ensure proper care and management of the objects, nor do they withdraw the lands from the operation of the public land, mining, and mineral leasing laws; thus a national monument reservation is necessary to protect the objects of historic and scientific interest in the Bears Ears region for current and future generations; and

WHEREAS, I find that the boundaries of the monument reserved by this proclamation represent the smallest area compatible with the protection of the objects of scientific or historic interest as required by the Antiquities Act; and

WHEREAS, it is in the public interest to ensure the preservation, restoration, and protection of the objects of scientific and historic interest on the Bears Ears region, including the entire monument landscape, reserved within the boundaries of the Bears Ears National Monument, as established by this proclamation;

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above and in Proclamation 9558 that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Bears Ears National Monument (monument) and, for the purpose of protecting those objects, reserve as part thereof all lands and interests in lands not currently reserved as part of a monument reservation and that are owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. These reserved Federal lands and interests in lands consist of those lands reserved as part of the Bears Ears National Monument as of December 3, 2017, and the approximately 11,200 acres added by Proclamation 9681, encompassing approximately 1.36 million acres. As a result of the distribution of the objects across the Bears Ears landscape, and additionally and independently, because the landscape itself is an object in need of protection, the boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects of historic or scientific interest identified above and in Proclamation 9558.

All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws or laws applicable to the United States Forest Service (USFS), from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

This proclamation is subject to valid existing rights. If the Federal Government subsequently acquires any lands or interests in lands not currently owned or controlled by the Federal Government within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

The Secretary of Agriculture and the Secretary of the Interior (Secretaries) shall manage the monument through the USFS and the Bureau of Land Management (BLM), respectively, in accordance with the terms, conditions, and management direction provided by this proclamation and, unless otherwise specifically provided herein, those provided by Proclamation 9558, the latter of which are incorporated herein by reference. The USFS shall manage that portion of the monument within the boundaries of the National Forest System (NFS), and the BLM shall manage the remainder of the monument. The lands administered by the USFS shall be managed as part of the Manti-La Sal National Forest. The lands administered by the BLM shall be managed as a unit of the National Landscape Conservation System. To the extent any provision of Proclamation 9681 is inconsistent with this proclamation or Proclamation 9558, the terms of this proclamation and Proclamation 9558 shall govern. To further the orderly management of monument lands, the monument will be jointly managed as a single unit consisting of the entire 1.36 million-acre monument.

For purposes of protecting and restoring the objects identified above and in Proclamation 9558, the Secretaries shall jointly prepare and maintain a new management plan for the entire monument and shall promulgate such regulations for its management as they deem appropriate. The Secretaries, through the USFS and BLM, shall consult with other Federal land management agencies or agency components in the local area, including the National Park Service, in developing the management plan. In promulgating any management rules and regulations governing the NFS lands within the monument and developing the management plan, the Secretary of Agriculture, through the USFS, shall consult with the Secretary of the Interior, through the BLM. The Secretaries shall provide for maximum public involvement in the development of that plan, including consultation with federally recognized Tribes and State and local governments. In the development and implementation of the management plan, the Secretaries shall maximize opportunities, pursuant to applicable legal authorities, for shared resources, operational efficiency, and cooperation.

In recognition of the importance of knowledge of Tribal Nations about these lands and objects and participation in the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect expertise and traditional and historical knowledge of Tribal Nations, a Bears Ears Commission (Commission) is reestablished in accordance with the terms, conditions, and obligations set forth in Proclamation 9558 to provide guidance and recommendations on the development and implementation of management plans and on management of the entire monument.

To further the protective purposes of the monument, the Secretary of the Interior shall explore entering into a memorandum of understanding with the State of Utah that would set forth terms, pursuant to applicable laws and regulations, for an exchange of land owned by the State of Utah and administered by the Utah School and Institutional Trust Lands Administration within the boundary of the monument for land of approximately equal value managed by the BLM outside the boundary of the monument. Consolidation of lands within the monument boundary through exchange in this manner provides for the orderly management of public lands and is in the public interest.

The Secretaries shall manage livestock grazing as authorized under existing permits or leases, and subject to appropriate terms and conditions in accordance with existing laws and regulations, consistent with the care and management of the objects identified above and in Proclamation 9558. Should grazing permits or leases be voluntarily relinquished by existing holders, the Secretaries shall retire from livestock grazing the lands covered by such permits or leases pursuant to the processes of applicable law. Forage shall

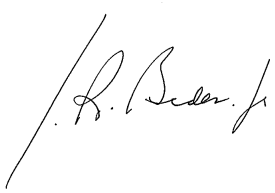
not be reallocated for livestock grazing purposes unless the Secretaries specifically find that such reallocation will advance the purposes of this proclamation and Proclamation 9558.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

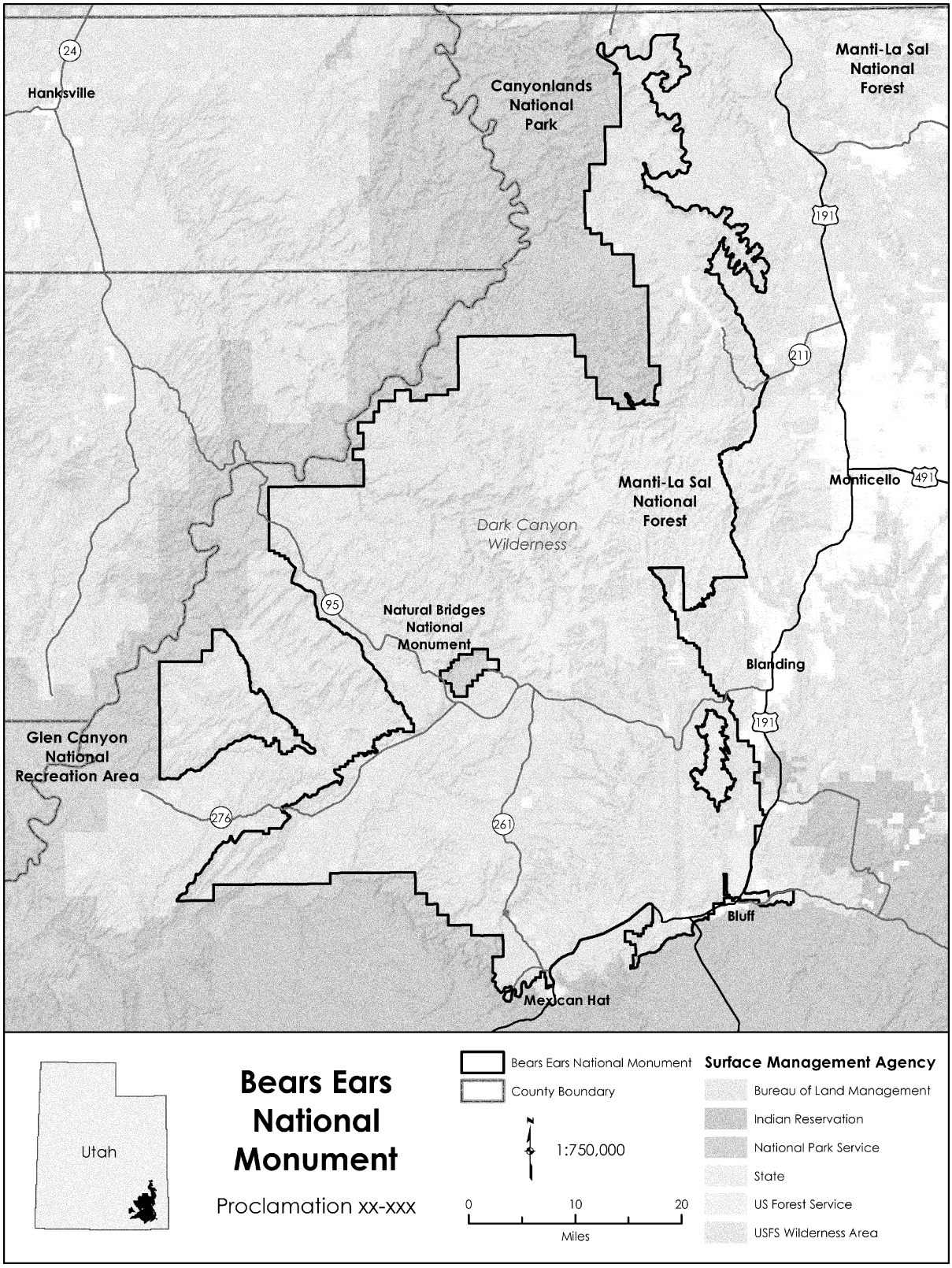
Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

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



Billing code 3395–F2–P



Bears Ears National Monument

Proclamation xx-xxx

[FR Doc. 2021–22672

Filed 10–14–21; 8:45 am]

Billing code 4310–10–C

Presidential Documents

Proclamation 10286 of October 8, 2021

Grand Staircase-Escalante National Monument

By the President of the United States of America

A Proclamation

President Clinton's designation of the Grand Staircase-Escalante National Monument in Proclamation 6920 of September 18, 1996, was a watershed moment for conservation in the United States. Proclamation 6920 represents the first time a President designated a national monument under the Antiquities Act to be managed by the Bureau of Land Management, signaling the dawn of the modern era of Antiquities Act protection and a reawakening of conservation efforts on public lands in the West.

Proclamation 6920 describes the rich mosaic of objects of historic and scientific interest across Grand Staircase-Escalante. Proclamation 6920 details the monument's varied geology, from the cliffs of the Grand Staircase in the west, to the fossil-rich formations in the Kaiparowits Plateau that demonstrate billions of years of geology infused with world-class paleontological sites, to the badlands of the Burning Hills in the center, to the intricate and complex system of canyons in the Escalante region in the east. The proclamation goes on to describe the area's rich human history, spanning from the indigenous people and cultures who made this area home to Anglo-American explorers and early Latter-day Saint pioneers. The proclamation further identifies outstanding biological resources, describing the monument as ''in the heart of perhaps the richest floristic region in the Intermountain West,'' spanning five life zones and supporting diverse, rare, and endemic populations of plants and a diversity of animals, as well as unusual and diverse soils that support communities of mosses, lichens, and cyanobacteria. In addition, the proclamation describes the vast opportunities for additional scientific research and discovery within the monument. Grand Staircase-Escalante has become the focus of a multi-disciplinary study of its large landscape for the benefit of current and future generations.

After the monument was established, the Congress adjusted the boundaries or ratified the acquisition of additional lands within the monument on three separate occasions, in some cases adding lands, in other cases subtracting lands. When the Congress had completed its fine-tuning, it had increased the monument's reservation by more than 180,000 acres, bringing the total Federal lands within the monument boundaries to approximately 1.87 million acres.

Remarkably, given its size, in the 25 years since its designation, Grand Staircase-Escalante has fulfilled the vision of an outdoor laboratory with great potential for diverse and significant scientific discoveries. During this period, hundreds of scientific studies and projects have been conducted within the monument, including investigating how the monument's geology provides insight into the hydrology of Mars; discovering many previously unknown species of dinosaurs, some of which have become household names; unearthing some of the oldest marsupial fossils ever identified; conducting extensive inventories of invertebrates, including the identification of more than 600 species of bees, some of which likely exist nowhere else on Earth; performing hydrologic research in the Escalante River and Deer Creek; studying and restoring habitat for amphibians, mammals, and bird species, including the reintroduction of bighorn sheep and pronghorn

to their native range; completing rangeland science assessments, including a complete Level III soils survey; carrying out widespread archaeological surveys that have documented important sites and rock writings; and implementing social science projects related to visitor experiences and impacts. New scientific discoveries are likely just around the corner; for example, scientists have collected thousands of specimens of invertebrates from the monument that await further study and are expected to yield new species that are endemic to the monument. Scientists have utilized every corner of the monument in their efforts to better understand our environment, our history, our planet's past, and our place in the universe.

On December 4, 2017, President Donald Trump issued Proclamation 9682 to reduce the monument by over 860,000 acres. Proclamation 9682 removes protection from objects of historic and scientific interest across the Grand Staircase-Escalante landscape, including some resources Proclamation 6920 specifically identifies for protection. Multiple parties challenged Proclamation 9682 in Federal court, asserting that it exceeded the President's authority under the Antiquities Act.

Restoring the Grand Staircase-Escalante National Monument to its size and boundaries as they existed prior to December 4, 2017, will ensure that this exceptional and inimitable landscape filled with an unparalleled diversity of resources will be properly protected and will continue to provide the living laboratory that has produced so many dramatic discoveries in the first quarter century of its existence. Given the unique nature of the objects identified across the Grand Staircase-Escalante landscape, the threat of damage and destruction to those objects, and the current inadequate protection they are afforded, a reservation of this size is the smallest area compatible with the proper care and management of the objects of historic and scientific interest named in this proclamation and Proclamation 6920.

The entire Grand Staircase-Escalante landscape—stretching from Skutumpah Terrace and the escarpments of the Grand Staircase in the west, Nipple Bench, Smoky Mountain, the Burning Hills, Grand Bench, the East and West Clark Benches, and Buckskin Mountain in the south, the Hole-in-the-Rock Trail that runs through the Escalante Desert, Upper Escalante Canyons, and Circle Cliffs in the northeast, and Alvey Wash and the Blues in the north—is an object of historic and scientific interest requiring protection under the Antiquities Act. There are innumerable objects of historic or scientific interest within this extraordinary landscape. Some of the objects are also sacred to Tribal Nations, rare, fragile, or vulnerable to vandalism and theft, or are dangerous to visit and, therefore, revealing their specific names and locations could pose a danger to the objects or the public.

High, rugged, and remote, the vast and austere Grand Staircase-Escalante landscape is characterized by bold plateaus and multihued cliffs that run for distances that defy human perspective. It is also home to world-famous slot canyons that are so deep and narrow that sunlight almost never penetrates their ultimate depths, and pools of numbingly cold water remain throughout the hottest months. Despite being the last place in the contiguous United States to be mapped and remaining a remote and primitive landscape to this day, the Grand Staircase-Escalante area has a long and dignified human history. The landscape teems with evidence of the efforts expended by both indigenous people and early Anglo pioneers to carve existences into an arid and unforgiving region. The Grand Staircase-Escalante region retains the frontier character of the American West, providing visitors with an opportunity to experience a remote landscape rich with opportunities for adventure and self-discovery. It is unique and rare in today's world to encounter a place where one can wander and ponder undisturbed, and explore and discover at one's own pace. It also serves as an outdoor laboratory on the frontier of scientific research that continues to regularly reveal important insights into our planet and our past.

The Grand Staircase-Escalante landscape is a geologic treasure of clearly exposed stratigraphy and structures. The sedimentary rock layers are relatively undeformed and unobscured by vegetation, offering a clear view to understanding the Earth's geological development. Owing in large part to the exposure of so many formations, the landscape is one of the world's great paleontological laboratories. From remarkable specimens of petrified wood, to the most continuous record of Late Cretaceous life, to the first evidence that tyrannosaurs hunted in packs, to marble-like iron oxide concretions found in Navajo Sandstone that provide insight into Martian geology, the ongoing discoveries on the Grand Staircase-Escalante landscape continue to make invaluable contributions to our understanding of the planet's past. Despite the abundance of paleontological discoveries that have occurred on the landscape, and the wealth of information they have provided about the entire Mesozoic Era, it is likely that we have thus far uncovered only a fragment of Grand Staircase-Escalante's paleontological story.

Rich in human history, the Grand Staircase-Escalante landscape abounds in evidence of habitation by the Ancestral Pueblo and Fremont cultures. Tribal Nations, including the Hopi Tribe, the Kaibab Band of Paiute Indians, the Navajo Nation, the Paiute Indian Tribe of Utah, the San Juan Southern Paiute Tribe of Arizona, the Pueblo of Acoma, the Pueblo of San Felipe, the Pueblo of Tesuque, and the Pueblo of Zuni, have ancestral, cultural, or historical ties to this area and continue to use the area to this day. The Southern Paiute people in particular hold these lands sacred as they make up a portion of their traditional homeland. The landscape has also played an important role in European settlement of the American West. In 1776, the Dominguez-Escalante expedition may have passed through the region, and subsequent travelers on the Armijo Route of the Old Spanish Trail journeyed up the Paria River, through Cottonwood Canyon and the Cockscomb, and to the west through Kimball Valley and along parts of Telegraph Flat below the Vermillion Cliffs. The John Wesley Powell expedition created some of the earliest maps of the area in 1872, and later that decade, Latter-day Saint pioneers literally etched portions of the Hole-in-the-Rock Trail across the desert in their efforts to settle southern Utah.

The landscape is also an outstanding biological resource. As a result of the blending of warm and cold desert flora and the high number of endemic species, the Grand Staircase-Escalante landscape, which contains 50 percent of Utah's rare flora and 125 species of plants that occur only in Utah or on the Colorado Plateau, is one of the most floristically rich regions in the Intermountain West. An abundance of unique, isolated plant communities can be found, such as hanging gardens, tinajas, and rock crevice, canyon bottom, and dunal pocket communities. Large expanses of various exposed geologic strata, each with unique physical and chemical characteristics, have resulted in a spectacular array of unusual and diverse soils, including desert pavement and biological soil crusts, which support a wide range of vegetative communities, such as relict plant communities that have existed since the Pleistocene, and a multitude of endemic plants and pollinators. For example, lands within the Grand Staircase-Escalante landscape contain an astounding biodiversity of bees due, in large part, to the substantial elevational gradient, diversity of habitats, and abundance of flowering plants. The area is home to hundreds of bee species, including dozens of species that are believed to be unique to this landscape. Many of the species found in the Grand Staircase-Escalante region are highly localized, with small populations occurring in only a few locations or near certain flowering plants. Wildlife also flourishes; from mountain lion, bear, pronghorn, and desert bighorn sheep, to hundreds of species of birds, the landscape's location and the great variation in its elevation and topography have created a unique environment where suitable habitat exists for species associated with multiple eco-regions.

The Grand Staircase-Escalante's large, isolated, and, at times, impenetrable landscape is one of the most naturally dark outdoor spaces left in America, providing views of the cosmos that are nearly unrivaled in the contiguous

United States, and an opportunity for visitors to encounter a landscape at night, undisturbed by electric lights, in the same way people have experienced the West for most of America's history. According to recent research, over 90 percent of the landscape, or nearly 1.7 million acres, contains pristine night skies, meaning that observers would see no indication of artificial skyglow anywhere in the night sky. Only natural sources of light are visible to the human eye, such as starlight, airglow, aurora, and zodiacal light. Comparatively, less than one third of the land area of the United States regularly experiences this degree of natural darkness, and most of that land is located in Alaska. The Grand Staircase-Escalante area also provides a remarkable natural soundscape with infrequent human-caused sounds. From popular recreational destinations to remote, isolated locations, acoustic baseline research has found that some of the quietest conditions found in protected areas across the United States can be found in the Grand Staircase-Escalante landscape.

The Grand Staircase-Escalante landscape is akin to a nesting doll of objects of historic and scientific interest. The landscape as a whole is an important object that provides context for each of its constituent parts. Within the whole are distinct and unique areas, which are themselves objects qualifying for protection. In turn, each of those areas contain innumerable individual fossils, archaeological sites, rare species, and other objects that are independently of historic or scientific interest and require protection under the Antiquities Act.

Located in the northeast corner of the Grand Staircase-Escalante landscape adjacent to Capitol Reef National Park is the Circle Cliffs area, which is dominated by a northwest-trending sandstone anticline and dramatic red sandstone cliffs. The area also encompasses several sky islands, including Studhorse Peaks, Colt Mesa, and Deer Point, the latter of which provides exquisite views of Waterpocket Fold—a stunning fold in the area's geologic layers that is the central feature of Capitol Reef National Park. The ecologically intact region provides important winter habitat for elk and contains a significant number of cultural sites used by Ancestral Pueblos and the Fremont. Specimens of petrified wood can be found across the Circle Cliffs area, including in the well-known Wolverine Petrified Wood Area, which includes some largely intact logs nearly 100 feet in length. Additionally, the Circle Cliffs landscape is rich in paleontological resources. The area, with geology dating back to the Triassic and Permian Periods, contains at least 45 known paleontological sites, including one in which a nearly complete articulated skeleton of *Poposaurus*—a rare bipedal crocodilian from the Late Triassic Period—was found. The Circle Cliffs landscape also contains portions of the Burr Trail, a route originally blazed by stockman John Atlantic Burr that is now a Utah Scenic Backway offering remarkable views of the Waterpocket Fold, the Henry Mountains, and the Boulder Mountain area of the Aquarius Plateau.

West of the Circle Cliffs and bisected by the Escalante River is the awe-inspiring Upper Escalante Canyons landscape. In this region, vivid geological features are laid bare in narrow, serpentine canyons, where erosion has exposed rolling expanses of petrified dunes and rock striations in shades of red, salmon, white, buff, and rust. The area's resources are almost too numerous to name. There are natural bridges and arches, such as Maverick Natural Bridge and Phipps Arch, the 130-foot tall Escalante Natural Bridge, and Bowington Arch; a large and unusual circular erosional sandstone formation that has sparked the public's imagination, as evidenced by its many names, including the Cosmic Navel; and several world-class slot canyons that draw adventurers from the world over, such as the Dry Fork of Coyote Gulch, Brimstone Canyon, Peek-a-boo Canyon, Spooky Gulch, Zebra and Tunnel Slot Canyons, and the Egypt Slots. The Escalante Canyons landscape also contains a high density of Fremont prehistoric sites, such as pithouses, villages, and storage cysts. The area's many canyons contain a world-class density and variety of Fremont, Ancestral Pueblo, and Southern Paiute rock writings, including a panel that is particularly meaningful to Tribal Nations

with ancestral and historical ties to the area and another panel containing polychromatic depictions of long, linear figures that may date back to the Archaic period. The Escalante Canyons landscape also contains many inscriptions left by early settlers of European descent and significant historic sites telling tales of the region's more recent past, such as the Boulder Mail Trail, which was used to ferry mail between the small desert outpost towns of Escalante and Boulder beginning in 1902. The Boulder Mail Trail intersects incredibly scenic canyons that empty into the Escalante River. The narrow sandstone walls of Sand Creek shade a perennial stream that meanders through cool pools and supports riparian habitat and hanging gardens. Perennial flows are also found in Death Hollow, a stunning canyon chiseled into yellow and white Navajo Sandstone that is narrow and extraordinarily deep in its upper reaches before transitioning near the Boulder Mail Trail into a wider canyon dotted with ponderosa pine and riparian habitat. As a result of the abundance of water in tributaries of the Escalante River, as well as various seeps and springs, the Escalante Canyons area is dotted with hanging gardens, tinajas, and riparian vegetation that provide oases of sorts in an otherwise arid environment. The area is distilled to its essence in Calf Creek Canyon, the home of towering Navajo Sandstone cliffs, lush vegetation, cultural sites, and a perennial stream with two waterfalls: a slender 88-foot plunge in the upper part of the canyon, and a 126-foot cascade farther downstream that is one of the more elegant waterfalls in the entire Southwest. The upper part of the watershed is strewn with black basalt boulders and expanses of iron concretion sheets.

To the southeast of the Upper Escalante Canyons, adjacent to Capitol Reef National Park and Glen Canyon National Recreation Area, is a region with a rich pioneer history that functions as a gateway to the many slot canyons and arches near the Escalante River. Traversing the area is the historically significant Hole-in-the-Rock Road, which generally follows the route that Latter-day Saint pioneers constructed between 1879 and 1880 when crossing southern Utah to establish a wagon route between Escalante and southeast Utah settlements. Today, the road provides access to many of the landscape's resources, including Devil's Garden, an area with hoodoos, colorful rock formations, and unique sandstone arches like the impressively delicate Metate Arch; the small but attractive Little Jumbo Arch; the widely photographed Sunrise and Sunset arches; and Chimney Rock, a remote, lonely sandstone pillar that seems to defy its otherwise flat surroundings. This area is also the location of Dance Hall Rock, an important landmark where Latter-day Saint pioneers camped and held meetings and dances when constructing the Hole-in-the-Rock Trail. These uncompromising desert lands are home to high concentrations of rare species of bees with fascinating adaptations to their local environment, such as *Diadasia* bees, which build nests in the hard desert soil that feature a clay chimney on top, an architectural design that has, thus far, stumped scientists trying to understand its utility. Consisting of rock primarily from the Jurassic Period, there are many paleontological sites in this region. Among those, the sprawling Twentymile Wash Dinosaur Megatrackway consists of more than several hundred individual dinosaur tracks and what some scientists believe is a rare, mid-line tail-drag impression left in the Escalante Member of the Entrada Formation by a sauropod, or long-necked dinosaur.

At the center of the Grand Staircase-Escalante landscape is the Kaiparowits Plateau, containing roughly 1,600 square miles of sedimentary rock that towers over the surrounding area. The plateau is bordered on the east side by the Straight Cliffs, which stretch from near the beginning of the Escalante River to Fiftymile Mountain, and on the west by the East Kaibab Monocline, better known as the Cockscomb. The area is made up of steep-walled canyons, escarpments, towers, arches, and a series of benches that ascend from the southern border of the Grand Staircase-Escalante landscape. The Cockscomb is formed by parallel ridges with an intersecting steep v-shaped trough, and flatirons, small monoliths, and other colorful formations along the western ridge. The plateau has evidence of thousands of years

of human habitation with sites attributed to many prehistoric cultures in southern Utah. Bighorn sheep and pronghorn have historically roamed the Kaiparowits Plateau—as evidenced by the area's petroglyph and pictograph panels—and reproducing populations have been reintroduced in recent years. The area is also home to a small population of chuckwalla and a population of desert night lizard, a species rarely seen in Utah.

The stratified geology of the Kaiparowits Plateau exposes fossils and other indicia of hundreds of millions of years of our planet's history, the only evidence in our hemisphere of mammals from the Cenomanian through Santonian ages and one of the world's best and most continuous records of Late Cretaceous terrestrial life. To date, many thousands of fossil sites have been documented on the plateau, including evidence of at least 15 previously unknown species of dinosaur. Fossils are preserved in stunning detail rarely seen in North America, including traces of soft tissue and the impressions of skin, beaks, and claws. The plateau contains a diverse assemblage of Campanian fauna, including a remarkable record of vertebrate species that include many new taxa and new temporal and geographic occurrences, thereby making the Kaiparowits Plateau an important scientific resource providing insight to the Late Cretaceous biosphere.

The Kaiparowits Plateau comprises multiple geological formations. The Kaiparowits and Wahweap Formations contain diverse and unique fossil evidence of ancient fauna and flora, including pterosaurs, frogs, salamanders, and snakes, that are fundamentally different from discoveries in other parts of North America. The Kaiparowits Formation has produced many ancient vertebrate taxa that are entirely new to science, including a vast array of horned dinosaurs, such as the *Nasutoceratops*, *Kosmoceratops*, and *Utahceratops*, a new species of *Gryposaurus* possessing a more robust skull, a new raptor, and the tyrannosaurid *Teratophoneus*. It has also produced evidence of a potentially new crested duck-billed dinosaur and incredibly diverse vegetative communities with previously undescribed fossil trees and aquatic plants. In 2018, researchers recovered the *Akainacephalus*, which is the most complete ankylosaur ever recovered in the southwestern United States. Exploration of the Wahweap Formation, while still in early stages, has led to striking Mesozoic Era discoveries, including the horned dinosaur *Diabloceratops* and the tyrannosaurid *Lythronax*. Similarly, the Dakota Formation contains some of the earliest evidence of mammals in the fossil record, and the Tropic Shale Formation includes important marine reptiles such as five species of plesiosaur and North America's oldest mosasaur. There are at least two mass mortality sites on the Kaiparowits Plateau, including the Rainbows and Unicorns site, which preserves the relatively complete remains of at least four tyrannosaurs ranging in age from juvenile to large adult, indicating that tyrannosaurs may have been social hunters and engaged in extended parental care, and Uncle Charley's Bonebed, which produced the fossilized remains of extinct tortoises, many of which had soft tissue preservation of skin and claws, and one of which even had a clutch of eggs preserved in its carapace. In addition, petrified wood from the Late Jurassic and Late Cretaceous Periods is found in the Morrison, Wahweap, and Kaiparowits Formations. The plateau also has an expansive exposure of a unique deposit of fossil oyster beds up to six feet thick from the Cretaceous Period, along with other marine mollusk shells.

The eastern portion of the Kaiparowits Plateau is dominated by Fiftymile Mountain and Fiftymile Bench. The upper elevations of these bench lands contain rich and varied ecosystems that include pinyon and juniper woodlands, ponderosa pine forests, and aspen groves. The area is dissected by a labyrinth of picturesque canyons, many of which contain important riparian ecosystems. The Fiftymile Mountain area has a high density of archaeological sites, including masonry structures, which have architectural styles suggesting that the Virgin Branch and Kayenta Branch of Ancestral Pueblos and the Fremont culture converged in the area. There are also sites considered sacred to several Tribal Nations with historical or ancestral ties to the Grand Staircase-Escalante region. This area further contains evidence of

early pioneers who tried to scratch out a life on the sparse landscape, including historic cabins, fences, and stock trails. The sagebrush steppe ecosystem of Fiftymile Bench provides views of Window Wind Arch and striking vistas of the skyscraper-like escarpment that is the eastern face of the Straight Cliffs. The Straight Cliffs Formation, which is particularly exposed in this part of southern Utah, is rich with fossil resources containing evidence of primitive mammals, as well as straight cone cephalopods, ammonites, gastropods, pelecypods, and Cretaceous shark teeth. The Straight Cliffs also contain many clusters of balanced or pedestal rocks, known as hoodoos. Sooner Rocks, at the base of the Straight Cliffs, provides outstanding examples of the geologic feature known as ''mega-potholes'' that are more often found in some of the sandstone formations in and around Glen Canyon.

Grand Bench lies on the southeastern border of the Kaiparowits Plateau between the Burning Hills to the west and Fiftymile Mountain to the east. The sparse road network in Grand Bench makes it one of the most remote locations in the Grand Staircase-Escalante, with largely unspoiled and unimpeded views of the night sky. The Grand Bench area is also home to the mostly freestanding Woolsey Arch, as well as many recorded paleontology sites found in its Cretaceous and Jurassic Period rocks, including petrified wood and important fossils.

The Smoky Mountain area just west of Grand Bench on the Kaiparowits Plateau provides a striking scene. The steep and rugged hilltops of the Burning Hills have been scorched red by naturally occurring underground coal fires that have been smoldering for hundreds, if not thousands, of years. Similarly, Smoky Mountain is dotted with natural chimneys that release hot smoke and sulfuric gasses from the coal fires below. Despite the hostile environment, this area is home to a number of rare and endemic plant species, including Atwood evening primrose and Smoky Mountain globemallow, as well as a thriving herd of desert bighorn sheep and nesting areas for a high density of raptors.

The lower benches of the Kaiparowits Plateau, including John Henry Bench, Tibbet Bench, Nipple Bench, and Jack Riggs Bench, lie to the west of Smoky Mountain and provide important habitat for big game, including desert bighorn sheep and pronghorn, and sweeping views to the south. The Cretaceous Wahweap Formation runs through the area and has been the site of many important fossil finds, including turtle shells, dinosaurs, and crocodile teeth. Just west of Nipple Bench are the Wahweap Hoodoos, ghostly white formations with brown capstones that can appear to float in the right conditions.

Alvey Wash is situated in the northern part of the Kaiparowits Plateau, close to the Straight Cliffs, and north of Death Ridge. In addition to providing access to the interior of the Kaiparowits Plateau, the Alvey Wash area contains geologic objects of historic and scientific interest, including various arches and portions of the Smoky Mountain Road State Scenic Backway, a remote, unpaved route that offers unparalleled views of Lake Powell and the Kaiparowits Plateau. The region's fossil-rich Cretaceous rocks contain more than a hundred known recorded paleontological sites. Alvey Wash, which likely acted as an important travel route between the Escalante River and the top of the Kaiparowits Plateau, also contains several important Fremont and Ancestral Pueblo sites, including rock writings, rock shelters, cliffside storage structures, and pithouses.

In the northern part of the landscape, east of the towns of Tropic and Cannonville, are the Blues, an area named for the blue-grey sandstone that provides a striking contrast against the forested uplands and the pink and white cliffs of Powell Point towering in the background. The velvety gray slopes of these shale badlands include exposures of the Kaiparowits Formation that are unique on the Colorado Plateau. Representing rapid accumulation of sediment during the Late Cretaceous Period, the stratigraphy has facilitated the discovery of a diversity of fossils, including early mammals,

lizards, dinosaurs, crocodilians, turtles, mollusks, and some fossils found nowhere else on Earth, including one of the largest oviraptors ever discovered. This area may also provide habitat for many raptor species, including Swainson's hawks, golden eagles, and peregrine falcons.

South of the Blues, the Butler Valley area provides jaw-dropping views of multi-colored sandstone cliffs to the north and contains important microvertebrate fossil localities in the Smoky Hollow Member of the Straight Cliffs Formation found near the upper reaches of Wiggler Wash. Also nearby is Grosvenor Arch, a rare double arch with sandstone buttresses that soars 150 feet in the air, as well as the tight canyons of Butler Valley and Round Valley Draw.

To the west of the Cockscomb lies the Hackberry Canyon area, with a deep gorge containing towering Wingate Sandstone cliffs and impressive narrows, and Yellow Rock, a smooth-sided dome that obtains its unique appearance from evaporated pools of water and the presence of limonite in its swirling Navajo Sandstone. With limited vegetation, Yellow Rock provides a commanding view of Hackberry Canyon to the north, the Paria River to the west, and the Cockscomb to the east. The area's high scenic quality is further enhanced by a number of towering arches, including Sam Pollock Arch, which spans 70 feet in a tributary of Hackberry Canyon. The Hackberry Canyon area contains Virgin Branch of Ancestral Pueblo sites, such as rock shelters, pithouses, lithic scatters, and masonry structures, as well as rock writings that can be found in side canyons. Hackberry Canyon also contains evidence of later Anglo habitation, including Watson Cabin, a one-room log cabin with a fieldstone chimney that was built in the early 1890s and is one of the few standing pioneer structures in the region.

To the west of the Kaiparowits Plateau, the Upper Paria River complex is a highly scenic and colorful maze of canyons, arches, and ''hydrothermal-collapse'' pipes and dikes that expose the multihued Carmel and Entrada Formations. The area is home to many perennial streams, the Paria River, and hundreds of acres of riparian vegetation, all of which support a particularly rich diversity of terrestrial vertebrate and avian species. Flowing continuously for most of the year thanks to water from the higher elevations in the north and west, the area's perennial streams have left the area dissected with canyons that eventually drain into the Paria River. As the flow increases, the Paria River cuts its way through a series of benches and cliffs that form a portion of the Grand Staircase as it meanders towards its confluence with the Colorado River near Lee's Ferry. For example, there is the spring-fed Willis Creek, which flows year-round through a moderately deep gorge that contains several sections of elegant narrows. Other nearby canyons, although dry most of the year, are subject to extreme erosional events from passing storms, such as Lick Wash, a deep canyon enclosed by horizontally striated white sandstone walls that are hundreds of feet high, and Bull Valley Gorge, an impressively deep and narrow canyon cut through Navajo Sandstone containing a variety of rock formations and colors. The Upper Paria River complex contains paleontological sites found in strata from the Jurassic and Cretaceous Periods. The Paria River corridor is also the site of the Paria ghost town, the only historic townsite in the monument. First settled by Latter-day Saint pioneers in 1865 as a farming community, the town was largely abandoned after a series of floods in the late 1800s, save for a post office, which served the area for many years.

After the Paria River crosses the Cockscomb and enters Cottonwood Canyon, it feeds a rich riparian area that provides important habitat for the endangered southwestern willow flycatcher. Cottonwood Canyon and the nearby Rimrocks area are home to a number of rare plants, such as the Tropic goldeneye and Atwood's pretty phacelia. This area, down to West Clark Bench, is also characterized by high ecological system diversity and is home to a number of rare bee species as well as a number of hot desert endemic species of bees in the northernmost known extent of their range.

The Rimrocks area is home to striking geological formations known as the Toadstool Hoodoos, fascinating features composed of Dakota Sandstone boulders perched precariously atop softer and eroded Entrada Sandstone, and a narrow slot canyon that contains rock writings. Further east, other geological formations include the White Rocks, and to the south, the area around the East and West Clark Benches forms a barren and austere landscape that exposes Jurassic and Cretaceous Period rocks rich in paleontological resources.

On the west side of the landscape is the Grand Staircase, a series of intensely colorful cliffs and plateaus that connect Bryce Canyon to the Grand Canyon. The Grey Cliffs are composed of soft Cretaceous shale and sandstone in subdued shades of gray, brown, and yellow that were deposited approximately 130 million years ago. The White Cliffs are high white or yellow cliffs of Navajo Sandstone that consistently reach heights of more than 1,000 feet. The area is home to rare and endemic bee species, particularly near Timber Mountain. The area also contains a number of relict plant communities on the sky islands of No Man's Mesa and Little No Man's Mesa, whose steep walls have guarded such communities for thousands of years, providing a living window into the past. Further south, the eponymous Vermilion Cliffs, once the shoreline for the ancient Lake Dixie, contain fossilized fish, dinosaurs, and early reptiles, as well as multiple tracksites. The Flag Point tracksite provides an enduring testament to humans' fascination with the traces of epochs past. The site contains a series of theropod tracks leading right to the cliff edge and, nearby, pictographs of the tracks that were likely left by ancient indigenous peoples living in nearby communities. The Grand Staircase area is also replete with evidence of thousands of years of human habitation. Pre-historic projectile points and hunter-gatherer residential pit structures are found in the higher elevations, whereas evidence of some of the earliest corn-related agriculture in the Southwest, developed by the Virgin Branch of Ancestral Pueblos, as well as evidence of the Southern Paiute people, who identify this area as part of their ancestral homeland, are found in the lower elevations. This area also contains a number of other unusual and important resources, including a high density of petrified wood and rare and endemic plant species, such as the Higgins spring parsley and Kane breadroot.

The Buckskin Mountain area, located southeast of the Vermilion Cliffs and west of the Cockscomb, is a unique lithological area, rich in rocks from the Triassic Period and late Paleozoic Era. It also provides winter range for the renowned Paunsaugunt mule deer herd and is the location of the Eagle Sink, a stunning sinkhole where the surrounding limestone collapsed to create an enormous 160-foot depression. The area also contains many Ancestral Pueblo cultural sites and provides access to the primary trailheads used to access Buckskin Gulch—the longest slot canyon in the United States, with walls ascending up to 400 feet—located in the adjacent Paria Canyon-Vermilion Cliffs Wilderness.

Protection of the Grand Staircase-Escalante National Monument will preserve its cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this area remain for the benefit of all Americans. Reservation of these lands will preserve the living laboratory within the monument boundaries that will facilitate significant scientific discoveries for years to come. The area contains numerous objects of historic and scientific interest, and it provides world-class outdoor recreation opportunities, including rock climbing, hunting, hiking, backpacking, canyoneering, river running, mountain biking, and horseback riding, that support a travel and tourism sector that is a source of economic opportunity for the region.

WHEREAS, section 320301 of title 54, United States Code (known as the ''Antiquities Act''), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated

upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected; and

WHEREAS, Proclamation 6920 of September 18, 1996, designated the Grand Staircase-Escalante National Monument in the State of Utah and reserved approximately 1.7 million acres of Federal lands as the smallest area compatible with the proper care and management of objects of historic and scientific interest; and

WHEREAS, on three separate occasions the Congress adjusted the boundaries of the monument—the Utah Schools and Lands Exchange Act of 1998, Public Law 105–335, 112 Stat. 3139; title II of Public Law 105–355, 112 Stat. 3247, 3252 (1998); and section 2604 of the Omnibus Public Land Management Act of 2009, Public Law 111–11, 123 Stat. 991, 1120—ultimately increasing the Federal lands reserved for the monument by more than 180,000 acres.

WHEREAS, Proclamation 9682 of December 4, 2017, modifies the management direction of the Grand Staircase-Escalante National Monument and excludes nearly half of the lands reserved in Proclamation 6920, which include lands containing objects of historic and scientific interest that Proclamation 6920 identifies as needing protection, such as portions of Circle Cliffs and Waterpocket Fold; and

WHEREAS, December 4, 2017, was the first time that a President asserted that the Antiquities Act included the authority to reduce the boundaries of a national monument or remove objects from protection under the Antiquities Act since the 1976 passage of the Federal Land Policy and Management Act, as amended (43 U.S.C. 1701 *et seq.*); and

WHEREAS, I find that each of the historic and scientific resources identified above and in Proclamation 6920 are objects of historic or scientific interest in need of protection under 54 U.S.C. 320301; and

WHEREAS, I find that the unique nature of the Grand Staircase-Escalante landscape, and the collection of objects and resources therein, make the entire landscape within the boundaries reserved by this proclamation an object of historic and scientific interest in need of protection under 54 U.S.C. 320301; and

WHEREAS, I find that there are threats to the objects identified in this proclamation and Proclamation 6920; and

WHEREAS, I find, in the absence of a reservation under the Antiquities Act, the objects identified in this proclamation and in Proclamation 6920 are not adequately protected by otherwise applicable law or administrative designations because neither provide the Department of the Interior with the specific mandate to ensure proper care and management of the objects, nor do they withdraw the lands from the operation of the public land, mining, and mineral leasing laws, and so a national monument reservation is necessary to protect the objects of historic and scientific interest in the Grand Staircase-Escalante region for current and future generations; and

WHEREAS, I find that the boundaries of the monument reserved by this proclamation represent the smallest area compatible with the protection of the objects of historic or scientific interest as required by the Antiquities Act; and

WHEREAS, it is in the public interest to ensure the preservation, restoration, and protection of the objects of historic or scientific interest on the Grand Staircase-Escalante lands, including the entire monument landscape, reserved within the boundaries established by this proclamation;

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above and in

Proclamation 6920 that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Grand Staircase-Escalante National Monument (monument) and, for the purpose of protecting those objects, reserve as part thereof all lands and interests in lands not currently reserved as part of a monument reservation and that are owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. These reserved Federal lands and interests in lands consist of those lands reserved as part of the Grand Staircase-Escalante National Monument as of December 3, 2017, encompassing approximately 1.87 million acres. As a result of the distribution of the objects across the Grand Staircase-Escalante landscape, and additionally and independently, because the landscape itself is an object in need of protection, the boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects of historic or scientific interest identified above and in Proclamation 6920.

All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

This proclamation is subject to valid existing rights. If the Federal Government subsequently acquires any lands or interests in lands not owned or controlled by the Federal Government within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

The Secretary of the Interior (Secretary) shall manage the monument through the Bureau of Land Management (BLM), as a unit of the National Landscape Conservation System, and in accordance with the terms, conditions, and management direction provided by this proclamation and, unless otherwise specifically provided herein, those provided by Proclamation 6920, the latter of which are incorporated herein by reference. To the extent any provision of Proclamation 9682 is inconsistent with Proclamation 6920 or this proclamation, the terms of this proclamation and Proclamation 6920 shall govern. To further the orderly management of monument lands, the monument will be managed as a single unit comprising the entire 1.87 million-acre Grand Staircase-Escalante National Monument.

For purposes of protecting and restoring the objects identified above and in Proclamation 6920, the Secretary shall prepare and maintain a new management plan for the entire monument. The Secretary, through the BLM, shall consult with other Federal land management agencies or agency components in the local area, including the National Park Service, in developing the management plan. The Secretary shall provide for maximum public involvement in the development of that plan, including consultation with federally recognized Tribal Nations and State and local governments. In the development and implementation of the management plan, the Secretary shall maximize opportunities, pursuant to applicable legal authorities, for shared resources, operational efficiency, and cooperation.

The Secretary, through the BLM, shall maintain an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) with the specific purpose of providing information and advice regarding the development of the management plan and, as appropriate, management of the monument, including scientific research that occurs therein. This advisory committee shall consist of a fair and balanced representation of interested stakeholders, including State and local governments, Tribal Nations, recreational users, conservation organizations, educators, local business owners, private landowners, and the scientific community, which may include members with

expertise in archaeology, paleontology, entomology, geology, botany, wildlife biology, social science, or systems ecology.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights or jurisdiction of any Tribal Nation. The Secretary shall, to the maximum extent permitted by law and in consultation with Tribal Nations, ensure the protection of sacred sites and cultural properties and sites in the monument and provide access to Tribal members for traditional cultural, spiritual, and customary uses, consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites), including collection of medicines, berries and other vegetation, forest products, and firewood for personal noncommercial use in a manner consistent with the care and management of the objects identified above and in Proclamation 6920.

The Secretary shall manage livestock grazing as authorized under existing permits or leases, and subject to appropriate terms and conditions in accordance with existing laws and regulations, consistent with the care and management of the objects identified above and in Proclamation 6920. Should grazing permits or leases be voluntarily relinquished by existing holders, the Secretary shall retire from livestock grazing the lands covered by such permits or leases pursuant to the processes of applicable law. Forage shall not be reallocated for livestock grazing purposes unless the Secretary specifically finds that such reallocation will advance the purposes of this proclamation and Proclamation 6920.

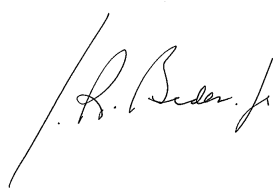
Nothing in this proclamation shall be construed to alter the authority or responsibility of any party with respect to emergency response activities within the monument, including wildland fire response.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

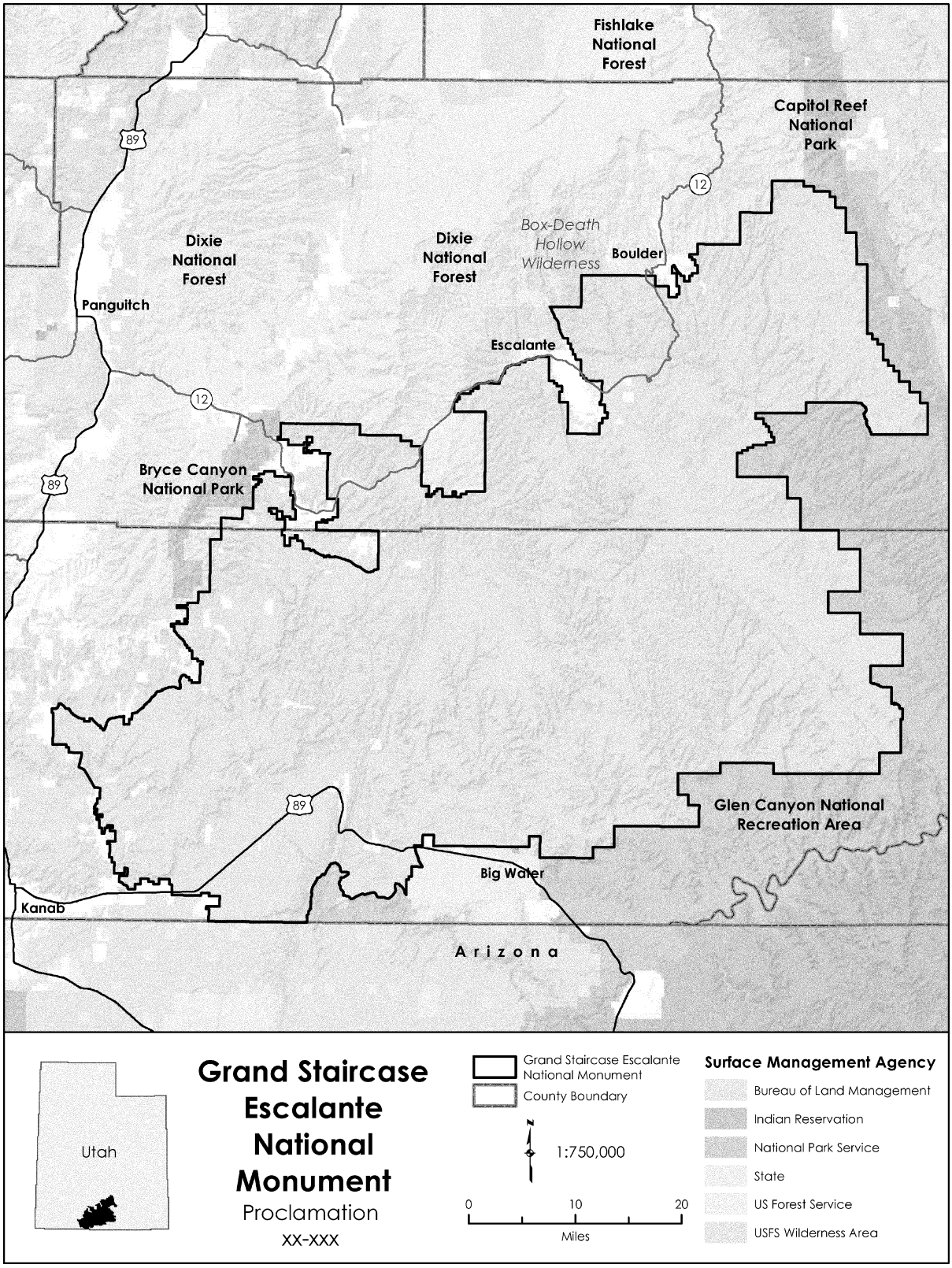
Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

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



Billing code 3395–F2–P



[FR Doc. 2021–22673

Filed 10–14–21; 8:45 am]

Billing code 4310–10–C

Presidential Documents

Proclamation 10287 of October 8, 2021

Northeast Canyons and Seamounts Marine National Monument

By the President of the United States of America

A Proclamation

On September 15, 2016, President Barack Obama issued Proclamation 9496 (Northeast Canyons and Seamounts Marine National Monument), which designated approximately 4,913 square miles of waters and submerged lands where the Atlantic Ocean meets the continental shelf as the Northeast Canyons and Seamounts Marine National Monument. This designation represented the culmination of nearly a half-century of conservation efforts to preserve the vulnerable deep marine ecosystems of the Atlantic canyons and seamounts, which are widely known as natural laboratories for the long-term study of benthic ecology due to their rich biodiversity of important deep-sea corals, endangered whales, endangered and threatened sea turtles, other marine mammals, and numerous fish and invertebrate species.

The monument is composed of two units, the Canyons Unit and the Seamounts Unit, each of which showcases unique geological features that anchor vulnerable ecological communities threatened by varied uses, climate change, and related impacts. As described by Proclamation 9496, the Canyons Unit includes three underwater canyons: Oceanographer, Gilbert, and Lydonia. The canyons' hard walls, which range from 200 meters to thousands of meters deep, provide important habitats for, and support the life cycles of, a diversity of ocean life, including sponges, corals, and other invertebrates; larger species such as squid, octopuses, skates, flounders, and crabs; and highly migratory oceanic species, including tuna, billfish, sharks, toothed whales (such as the endangered sperm whale), and many species of beaked whales. The larger Seamounts Unit is home to four extinct undersea volcanoes—Bear, Physalia, Retriever, and Mytilus—that form a portion of an underwater chain of more than 30 extinct volcanoes that runs from the southern side of the Georges Bank to midway across the western Atlantic Ocean. These extinct volcanoes were formed as the Earth's crust passed over a stationary hot spot that pushed magma up through the seafloor, and many of them have flat tops that were created as ocean waves eroded the cooling magma. Geographically isolated from the continental platform and characterized by steep and complex submarine topography that interrupts existing ocean currents and provides a constant supply of plankton and nutrients, the seamounts are biological islands with various substrates that form ocean oases and act as incubators for new life. All four seamounts support highly diverse ecological communities, including many rare and endemic species that are new to science and are not known to live anywhere else on Earth. Together, the monument's submarine canyons and seamounts create the unique ecological conditions necessary to support one of the Atlantic Ocean's most biologically productive and important marine environments and one of science's greatest oceanic laboratories. Proclamation 9496 recognized the undersea canyons and seamounts, the deep-sea, pelagic, and other marine ecosystems they support, and the biodiversity they contain as objects of historic and scientific interest and dedicated the Federal lands and waters within the monuments' boundaries to their protection.

To provide for the proper care and management of the monument's objects of historic and scientific interest, Proclamation 9496 directed the Secretary

of Commerce and the Secretary of the Interior (Secretaries) to prepare a joint management plan and promulgate implementing regulations, as appropriate. To the extent consistent with domestic and international law, Proclamation 9496 also directed the Secretaries to prohibit certain activities within the monument, including mineral exploration and development; the use of poisons, electrical charges, or explosives to collect or harvest monument resources; and drilling into, anchoring, dredging, or otherwise altering submerged lands. Proclamation 9496 also directed the Secretaries to prohibit all commercial fishing within the monument, but allowed the Secretaries to permit a 7-year phase-out for red crab and American lobster commercial fishing.

Despite the monument's ecological importance, wealth of objects of historic and scientific interest, and potential for additional scientific discovery, President Donald Trump issued Proclamation 10049 (Modifying the Northeast Canyons and Seamounts Marine National Monument) on June 5, 2020, to remove the restrictions on commercial fishing. Multiple parties challenged Proclamation 10049 in Federal court, asserting that it exceeded the President's authority under the Antiquities Act. Restoring the prohibition on commercial fishing will ensure that the unique, fragile, and largely pristine canyons and seamounts, and the dynamic ocean systems and marine life they support, identified in Proclamation 9496 as objects of historic or scientific interest requiring protection under the Antiquities Act, will be safeguarded and will continue to provide an important venue for scientific study and research.

The Canyons Unit and Seamounts Unit each contain interconnected oceanographic, geologic, and biologic features that create a unique oceanic system that supports an abundant concentration of biodiversity. These features' close proximity to each other results in an interdependent whole that exceeds the sum of its constituent parts.

In the case of the Canyons Unit, the monument boundary closely corresponds to a contiguous continental shelf break area around the heads of the three canyons, which extend seaward from features that have not yet fully taken on the distinctive canyon shape, to the walls and valleys of the canyons themselves, and out to the start of the outer shelf thousands of meters below. Within this transitional region, the walls of the three closely situated canyons combine with ocean currents, temperature gradients, eddies, and fronts to create significant and complex nutrient cycling and other processes that result in a biologically rich and distinct oceanic system. The Canyons Unit is sized to correspond to and protect these large-scale oceanic processes that provide the foundation for the distinct habitat that supports numerous objects of scientific interest. For example, the shallower depths of the canyons include ecologically significant and vulnerable habitat for tilefish, which function as ecosystem engineers by creating ''pueblo'' habitat at depths of 100 to 300 meters in the monument's canyons, which in turn supports a diversity of fish and invertebrate species. The Canyons Unit also supports a great abundance of marine mammals and other upper-trophic level predators attracted to the prey abundance fostered by the Canyons Unit's unique marine landscape. Due to the close proximity of the three canyons to one another, congregating marine mammals and pelagic fish species routinely transit the inter-canyon areas while foraging among the biologic abundance found there. This is an example of the important ecological linkages that connect the monument's various topographies, the surrounding shelf, and the water column above them, which necessitate protection of the entire interrelated system.

In the case of the Seamounts Unit, the boundary encompasses the four seamounts and the areas between the edges of Bear and Retriever Seamounts on the north side, Bear and Mytilus Seamounts on the south side, and out to the boundary line of the Exclusive Economic Zone on the east side. These four seamounts, rising thousands of feet from the surrounding seafloor, are the only seamounts located within U.S. Atlantic waters. As with the Canyons Unit, the proximity of these important geologic features to each

other influences the currents, upwelling, stratification, and mixing that make the species and habitat within the monument so diverse, abundant, and unique. The seamounts function as oases in the open ocean environment and feature distinct ecological communities as they grade down from the relatively shallow seamount peaks to the abyss below. They are critical to protecting the ecosystem linkages that transport nutrients to the surface through predator-prey interactions and temperature-driven upwelling, and transport organic carbon to deep-sea ecosystems (corals and benthic communities) through plankton and fecal detritus, downwelling materials, downslope currents, and animal migration and mortality.

The boundaries of the monument reflect the need to protect the canyons, seamounts, and the attendant deep-sea, pelagic, and other marine ecosystems, which are themselves objects of historic and scientific interest, as well as the complex geologic, oceanographic, and biologic characteristics in the Canyons Unit and Seamounts Unit. The monument ensures these vulnerable marine ecosystems are safeguarded and will remain the great ocean laboratories recognized in Proclamation 9496. The boundaries are closely hewn to prominent geologic objects that form the foundation of closely linked habitats, which support the monument's great abundance and diversity of life. The boundaries are scaled to avoid cascading negative effects from failing to protect parts of these complex and interconnected marine environments and their unique oceanographic processes. In order to ensure effective management and protection of the objects of historic and scientific interest, straight-line coordinates are used where possible to provide clear and enforceable demarcation of this open-ocean monument. For these reasons, Proclamation 9496 found that the lands owned or controlled by the Federal Government within the monument's boundaries were the smallest area compatible with the proper care and management of the objects of historic and scientific interest designated for protection.

Commercial fishing activity has the potential to significantly degrade the monument's objects of historic and scientific interest. Bottom-contact fishing gear and fixed fishing gear (for example, traps, gillnets, and bottom and pelagic long-line gear) with buoys, submerged lines, and associated traps, mesh, or hooks, all pose threats to the canyons and seamounts, the ecosystem, and the deep-sea, pelagic, and other marine life they support, as well as the additional objects of historic and scientific interest contained therein. Although statutes such as the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, the Migratory Bird Treaty Act, 16 U.S.C. 703–712, the National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd–668ee, the Refuge Recreation Act, 16 U.S.C. 460k *et seq.*, the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, the Clean Water Act, 33 U.S.C. 1251 *et seq.*, the Oil Pollution Act, 33 U.S.C. 2701 *et seq.*, the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.*, and Title I of the Marine Protection, Research and Sanctuaries Act (Ocean Dumping Act), 33 U.S.C. 1401 *et seq.*, provide important safeguards that did not exist prior to the Antiquities Act's passage, these laws do not adequately address the threats facing the canyons and seamounts and their surrounding ecosystem. The prohibition on commercial fishing confers necessary, additional, and lasting protections for the objects of historic and scientific interest in the Northeast Canyons and Seamounts Marine National Monument for current and future generations.

Protection of the Northeast Canyons and Seamounts as a marine national monument preserves significant geological features, marine biota, and deep-sea, pelagic, and other marine ecosystems that the canyons and seamounts create and support as they interact with ocean currents, ensuring that the natural and scientific values of this area are maintained for the benefit of all Americans and for the discovery of new information about living marine resources for years to come.

WHEREAS, section 320301 of title 54, United States Code (the ''Antiquities Act'') authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected; and

WHEREAS, Proclamation 9496 designated the Northeast Canyons and Seamounts Marine National Monument in the Atlantic Ocean and reserved approximately 4,913 square miles of water and submerged lands in and around certain deep-sea canyons and seamounts situated upon lands and interests in lands owned or controlled by the Federal Government as the smallest area compatible with the proper care and management of objects of historic and scientific interest; and

WHEREAS, Proclamation 10049 modified the conditions of the Northeast Canyons and Seamounts Marine National Monument to allow commercial fishing activities, which could impact monument objects; and

WHEREAS, I find that the resources identified above and in Proclamation 9496 are objects of historic or scientific interest in need of protection under the Antiquities Act; and

WHEREAS, I find that the unique nature of the waters and submerged lands that make up the marine environment in the Northeast Canyons and Seamounts area and the collection of objects and resources therein make the entire area within the boundaries of the monument an object of historic and scientific interest in need of protection under the Antiquities Act; and

WHEREAS, I find that there are documented threats to the objects identified above and in Proclamation 9496; and

WHEREAS, I find that the objects identified above and in Proclamation 9496 are not adequately protected by applicable law and other administrative designations; and

WHEREAS, I find that the boundaries of the monument reserved by Proclamation 9496 represent the smallest area compatible with the proper care and management of the objects of historic or scientific interest; and

WHEREAS, it is in the public interest to ensure the preservation and protection of the objects of historic and scientific interest in the Northeast Canyons and Seamounts Marine National Monument;

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim that, in order to provide for the proper care and management of the objects identified above and in Proclamation 9496, management of lands and interests in lands owned or controlled by the Federal Government within the Northeast Canyons and Seamounts Marine National Monument shall be governed by the management provisions of Proclamation 9496. Such provisions include paragraph 6 in the section entitled ''Prohibited Activities'' and paragraph 5 in the section entitled ''Regulated Activities,'' which provide for the prohibition of all commercial fishing in the monument, except for red crab and American lobster commercial fishing, which may be permitted until September 15, 2023.

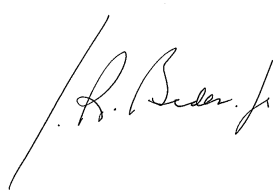
The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, and the Secretary of the Interior, through the United States Fish and Wildlife Service, share management responsibility for the monument, as prescribed in Proclamation 9496. Within their respective authorities, the Secretaries shall prepare a joint management plan for the monument by September 15, 2023, and, as appropriate, shall promulgate implementing regulations that address any further specific actions necessary for the proper care and management of the objects and area identified above and in Proclamation 9496.

To the extent any provision of Proclamation 10049 is inconsistent with this proclamation or Proclamation 9496, the terms of this proclamation and Proclamation 9496 shall govern.

Warning is hereby given to all unauthorized persons not to appropriate, excavate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any lands thereof.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

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



[FR Doc. 2021–22674
Filed 10–14–21; 8:45 am]
Billing code 3395–F2–P

Rules and Regulations

Federal Register
Vol. 86, No. 197
Friday, October 15, 2021

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AO15

Prevailing Rate Systems; Conduct of Local Wage Surveys

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: On March 1, 2021, the Office of Personnel Management issued an interim final rule to amend regulations to allow for additional options to collect wage data during Federal Wage System full-scale and wage change surveys, namely, by personal visit, telephone, mail, or electronic means. This change is based on a majority recommendation of the Federal Prevailing Rate Advisory Committee and was initiated by a Department of Defense request for greater flexibility to obtain accurate and timely prevailing wage data in local labor markets during and after the national emergency caused by the COVID–19 health crisis. This document adopts the interim rule as final without change.

DATES: Effective October 15, 2021.

FOR FURTHER INFORMATION CONTACT: Mark Allen, by telephone at (202) 606–2858 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On March 1, 2021, OPM issued an interim final rule (86 FR 11857) to amend the regulatory provisions in part 532 of title 5, Code of Federal Regulations (CFR), which require in-person visits by data collectors to private industrial establishments for Federal Wage System (FWS) full-scale wage surveys. The interim final rule amended sections 5 CFR 532.201, 532.207, 532.235, and 532.247.

The amended regulations will provide additional options to collect wage data during full-scale and wage change surveys, namely, by personal visit, telephone, mail, or electronic means, even though the preferred method continues to be personal visits.

The 30-day comment period ended on March 31, 2021. OPM received two comments in support of the collection of data by alternate means and eight comments that are beyond the scope of this rule.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any 1 year. This rule is not a ''significant regulatory action,'' under Executive Order 12866.

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) requires rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action before its effective date, as required by 5 U.S.C. 801. This action is not major as defined by the Congressional Review Act (CRA) (5 U.S.C. 804).

Paperwork Reduction Act

While this rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, the following collections will be affected: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C)—OMB Control Number: 3206–0036. The systems of record notice for this collection is: *https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf.*

The survey and its methodology does not change based on this rule. Therefore burden and cost estimates remain the same. While we do not expect the respondent burden to increase or decrease through this change in procedure, in the long term, there may be some savings on travel costs. OPM note the the decision to use alternative data collection methods than in-person visits will reside with the local wage survey committee any cost savings are currently unknowable.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

■ Accordingly, the interim rule published March 1, 2021, at 86 FR 11857, is adopted as final without change.

[FR Doc. 2021–22512 Filed 10–14–21; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–SC–21–0016; SC21–966–1 FR]

Tomatoes Grown in Florida; Reapportionment of Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adjusts the number of member seats apportioned to each district represented on the Florida Tomato Committee (Committee). The Department of Agriculture (USDA) is taking this action due to a 2020 amendment to the marketing order for tomatoes grown in Florida, which reduced the size of the Committee from 12 members to 10, but did not also reduce the number of member seats per district. This action changes the number of members in each of the two districts from six members and their alternates to five members and their alternates, to resolve the regulatory conflict.

DATES: Effective November 15, 2021.

FOR FURTHER INFORMATION CONTACT: Steven W. Kauffman, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Steven.Kauffman@usda.gov* or *Christian.Nissen@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Agreement No. 125 and Order No. 966, as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida. Part 966 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers operating within the production area.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have tribal implications. AMS has determined this rule is unlikely to have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Committee met on November 1, 2018, and February 27, 2019, to recommend changes to the Order. These recommendations included reducing the Committee size from 12 members to 10, reducing the number of districts in the production area from four districts to two, and establishing that membership on the Committee be divided evenly between the two districts. The reduction to two districts and the reapportionment of Committee membership that provided equal representation of six members in each of the newly formed districts were completed under a separate rulemaking published in the **Federal Register** on September 26, 2019 (84 FR 50711)(''2019 Amendments'').

Further amendments to the Order published in the **Federal Register** on November 16, 2020 (85 FR 72914)(''2020 Amendments''), in part, reduced total membership on the Committee from 12 members and their alternates to 10 members and their alternates under 7 CFR 966.22(a). However, 7 CFR 966.161 continued to designate six member seats and their alternates to each of the two districts, for a total of 12 members and their alternates. This rule resolves that conflict in the Order by reducing member seats in each of the two districts from six members and their alternates to five members and their alternates, maintaining equitable representation on the Committee from both districts.

Section 966.22 provides for the establishment of membership on the Committee. Ten members and their alternates shall be producers, or officers or employees of a corporate producer, in the district for which selected and a resident of the production area. Section 966.160 defines two districts from which producers serve as representatives on the Committee.

Section 966.25 provides the authority for the Committee to recommend, with the approval of the Secretary, reapportionment of members among districts, and the reestablishment of districts within the production area. Section 966.161 apportions Committee membership among the two districts pursuant to § 966.25.

During the Committee's discussions on November 1, 2018, and February 27, 2019, members indicated they wanted to establish equity in membership between the two districts. This action reduces the seats in each district from six members and their alternates to five members and their alternates to conform with the 2020 Amendments to 7 CFR 966.22(a). This will maintain equitable representation on the Committee and bring the total number of apportioned seats from two districts into compliance with the reduced number of Committee members authorized in the Order, at 7 CFR 966.22(a).

Accordingly, each district will nominate five members and five alternates for a total of 10 members and 10 alternate nominees to serve on the Committee.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 65 producers of Florida tomatoes in the production area and 41 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

With an estimated producer price of $14.00 per 25-pound container, the number of Florida tomato producers, and a normal distribution assumed, the average annual producer revenue is above $1,000,000, ($14.00 times 22.3 million containers equal $312,200,000, divided by 65 producers equals $4,803,077 per producer). Thus, the majority of producers of Florida tomatoes may be classified as large entities.

According to industry and Committee data, the average annual price for fresh Florida tomatoes during the 2019–20 season was approximately $19.07 per 25-pound container, and total fresh shipments were 22.3 million containers. Using the average price and shipment information, the number of handlers, and assuming a normal distribution, the majority of handlers have average annual receipts of less than $30,000,000, ($19.07 times 22.3 million containers equals $425,261,000, divided by 41 handlers equals $10,372,220 per handler). Thus, the majority of handlers of Florida tomatoes may be classified as small entities.

This final rule adjusts the number of member seats apportioned on the Committee. USDA is taking this action because a 2020 amendment to the Order reduced the size of the Committee from 12 members to 10, but did not simultaneously reduce member seats in each of the two districts from six members and their alternates to five members and their alternates. This conforming change revises § 966.161 pursuant to the authority in § 966.25. The balance of representation on the Committee will remain the same, with member seats divided evenly between the two districts. Effects of this final rule should not be disproportionately greater or less for small entities than for larger entities.

It is not anticipated that this action will impose any additional costs on the industry. This change is a conforming change and will not establish any new regulatory requirements on handlers. There should be no change in financial costs, reporting, or recordkeeping requirements because of this action.

Alternatives to reapportionment were discussed and considered by the Committee. However, these alternatives were rejected. The Committee agreed that given the number of producers had decreased, reducing the Committee size would make it more reflective of today's industry. The Committee also wanted to maintain the balance of representation between the two districts. With the 2020 amendment to the Order, this action is necessary to make regulations conform to the Order requirements.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes are necessary in those requirements because of this action. Should any changes become necessary, they will be submitted to OMB for approval.

This final rule imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services.

The Committee's meetings are widely publicized throughout the Florida tomato industry, and all interested persons are invited to attend meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the November 1, 2018, and February 27, 2019, meetings were open to the public, and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on June 28, 2021 (86 FR 33913). Copies of the proposed rule were sent via email to Committee members and Florida tomato handlers. Additionally, the proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending July 28, 2021, was provided to allow interested persons to respond to the proposal. No comments on the proposal were received. Accordingly, no changes were made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it has been found that this rule will effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 966.161 to read as follows:

§ 966.161 Reapportionment of Committee Membership.

Pursuant to § 966.25, industry membership on the Florida Tomato Committee shall be reapportioned as follows:

(a) District 1—five members and their alternates.

(b) District 2—five members and their alternates.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–22487 Filed 10–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0788]

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

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones surrounding vessels involved in Coast Guard training exercises in Hood Canal, WA, from October 25, 2021, through November 5, 2021. This action is necessary to ensure the safety of the maritime public and vessels near training exercises. During the enforcement period, entry into the safety zones is prohibited, unless authorized by the Captain of the Port Sector Puget Sound or their Designated Representative.

DATES: The regulations in 33 CFR 165.1339 will be enforced from 8 a.m. on October 25, 2021, through 5 p.m. on November 5, 2021.

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

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones around vessels involved in Coast Guard training exercises in Hood Canal, WA, set forth in 33 CFR 165.1339, from 8 a.m. on October 25, 2021, through 5 p.m. on November 5, 2021. Under the provisions of 33 CFR 165.1339, no person or vessel may enter or remain within 500 yards of any vessel involved in Coast Guard training exercises while such vessel is transiting Hood Canal, WA, between Foul Weather Bluff and the entrance to Dabob Bay, unless authorized by the Captain of the Port Sector Puget Sound (COTP) or their Designated Representative. In addition, the regulation requires all vessel operators seeking to enter any of the zones during the enforcement period to first obtain permission. You may seek permission by contacting the on-scene patrol commander on VHF channel 13 or 16, or the Sector Puget Sound Joint Harbor Operations Center at 206–217–6001.

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

Dated: October 7, 2021.

P.M. Hilbert,

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

[FR Doc. 2021–22492 Filed 10–14–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0138]

RIN 1625–AA00

Safety Zones; Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its safety zones established for recurring marine events and fireworks displays that take place within the Fifth Coast Guard District area of responsibility. This final rule revises the listing of events that informs the public of regularly scheduled fireworks displays that require additional safety measures provided by regulations. Through this final rule, the current list of recurring marine events requiring safety zones is updated with revisions, additional events, and removal of events that no longer take place in the Fifth Coast Guard District area of responsibility.

DATES: This rule is effective without actual notice from October 15, 2021. For the purposes of enforcement, actual notice will be used from October 1, 2021, until October 15, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0138 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ethan Coble, Fifth Coast Guard District Office of Waterways Management, U.S. Coast Guard; telephone (757) 398–7745, email *Ethan.J.Coble@uscg.mil* or Mr. Jerry Barnes, Fifth Coast Guard District Office of Waterways Management, U.S. Coast Guard; telephone (757) 398–6230, email *Jerry.R.Barnes@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
Event PATCOM Coast Guard Event Patrol Commander
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard regularly updates the regulations for recurring safety zones within the Fifth Coast Guard District at 33 CFR 165.506, and its respective tables. These recurring safety zones are for fireworks displays that take place either on or over the navigable waters of the Fifth Coast Guard District as defined at 33 CFR 3.25. These regulations were last amended June 13, 2017 (81 FR 81005). Since then, Marine Events within the Fifth US Coast Guard District have been created or changed in a way that varies from their description in this regulation. In response, on April 30, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District, (86 FR 22913). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to recurring marine events and firework displays. The comment period ended on June 1, 2021, and we received no comments.

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 would be impracticable and contrary to the public interest. Immediate action is needed to respond to the potential safety hazards associated with the remaining 2021 boating season events. The first of the remaining events is a fireworks display scheduled to occur during the Washington Nationals major league baseball home game on October 1, 2021, hosted at Nationals Park on the Anacostia River. Hazards associated with this event include potential hazardous falling debris and possible

fire, explosion, projectile, and burn hazards.

III. Legal Authority and Need for Rule

The Coast Guard is conducting this rulemaking under authority in 46 U.S.C. 70034 (previously, 33 U.S.C. 1231). The Secretary has delegated ports and waterways authority, with certain reservations not applicable here, to the Commandant via DHS Delegation No. 00170.1, Revision No. 01.2, paragraph (II)(70). The Commandant has further delegated these authorities within the Coast Guard as described in 33 CFR 1.05–1 and 6.04–6. The need for this rule is to ensure the safety of persons, vessels, and the navigable waters within close proximity to fireworks displays before, during, and after the scheduled events. Each year, organizations, individuals and government agencies in the Fifth Coast Guard District sponsor fireworks displays in the same general location and time period. Each event uses a floating platform (*e.g.,* barge) or an on-shore site near the shoreline to launch the fireworks. A safety zone is used to limit access to an area within a specified distance surrounding the fireworks launch site to ensure the safety of persons and property. Coast Guard personnel on scene may allow boaters within the safety zone if conditions permit.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM, published April, 30 2021. There are no changes in the regulatory text of this rule from the NPRM.

A. Administrative Changes

As described in the NPRM, administrative changes to the regulatory text will reorganize and consolidate the text, so as to improve the readability and reflect revised local policies. The following is a summary of changes from the current regulatory text:

- Re-organized to better present information on defined terms, applicability of the regulation, when the regulation will be enforced, requirements of the regulation, warning sign information, postponement or cancellation of an event, COTP contact information, and the tables of events.
- Changed language from ''Coast Guard Patrol Commander'' to ''Event Patrol Commander''.
- Consolidated enforcement regulations into a single paragraph (c).
- Changed language in the paragraph regarding warning-sign requirements from ''fireworks launch site'' to ''floating platform''.
- Updated applicable contact information for Coast Guard Sectors.
- Added a paragraph to give discretionary authority to COTPs and Event PATCOMs to postpone or cancel the fireworks display at any time for the purpose of ensuring the safety of the public.

B. Changes to Table to 33 CFR 165.506

This rule adds 14 new safety zones, revises 29 previously established safety zones, and removes 24 safety zones. Currently there is one table of events for all of 33 CFR 165.506. This table has been rewritten into separate tables for each COTP zone. Enforcement date entries in the table have also be reformatted. Summarized additions, revisions and removals from the table are as follows:

New Safety Zones

TABLE 1—NEW SAFETY ZONES TO BE ADDED TO 33 CFR 165.506

USCG sector	Location	Regulated area	Enforcement period(s) *
Coast Guard Sector Delaware Bay—COTP Zone.	Delaware Bay, Lewes, DE.	All waters of Delaware Bay off Lewes, DE, within 350 yards of the barge anchored in approximate position 38°47′12″ N, 075°07′48″ W.	One period, four days.
	Great Egg Harbor Bay, Ocean City, NJ.	The waters of the Great Egg Harbor Bay within a 300-yard radius of the fireworks barge in approximate position latitude 39°17′24″ N, longitude 074°34′31″ W, adjacent to shoreline of Ocean City, NJ.	One period, one day.
Coast Guard Sector Maryland-National Capital Region—COTP Zone.	Washington Channel, Upper Potomac, Washington, DC.	All navigable waters of the Washington Channel within 200 feet of the fireworks barge, which will be located within an area bounded on the south by latitude 38°52′30″ N, and bounded on the north by the southern extent of the Francis Case (I–395) Memorial Bridge, located at Washington, DC.	Multiple periods March through December each year.
	Anacostia River, Washington, DC.	All navigable waters of the Anacostia River within 400 feet of the fireworks barge in approximate position latitude 38°52′16.3″ N, longitude 077°00′09.7″ W, located at Washington, DC.	One period, one day.
	Middle River, Baltimore County, MD.	All navigable waters of the Middle River within 200 yards of the fireworks barge in approximate position latitude 39°18′25″ N, longitude 076°24′27″ W, located in Baltimore County, MD.	One period, one day.
	Susquehanna River, Havre de Grace, MD.	All navigable waters of the Susquehanna River within 200 yards of the fireworks barge in approximate position latitude 39°32′19″ N, longitude 076°04′58.3″ W, located at Havre de Grace, MD.	One period, one day.
	Spa Creek, Annapolis, MD.	All navigable waters of Spa Creek within 400 feet of the fireworks barge in approximate position latitude 38°58′32.48″ N, longitude 076°28′57.55″ W, located at Annapolis, MD.	One period, one day.
	Severn River, Sherwood Forest, MD.	All navigable waters of the Severn River within 150 yards of the fireworks discharge site located at the end of Sherwood Forest Club main pier in approximate position latitude 39°01′54.0″ N, longitude 076°32′41.8″ W, located at Sherwood Forest, MD.	One period, one day.
	Patapsco River, Middle Branch, Baltimore, MD.	All navigable waters of the Middle Branch of the Patapsco River, within 800 feet of a fireworks barge in approximate position latitude 39°15′31.67″ N, longitude 076°37′13.95″ W, located at Baltimore, MD.	One period, one day.
Coast Guard Sector Virginia—COTP Zone.	Elizabeth River, Town Point Reach, Norfolk, VA.	All waters of Elizabeth River within a 600-foot radius of the fireworks display at approximate position latitude 36°50′40.99″ N, longitude 076°17′45.48″ W near Town Point Park, VA.	One period, one day.

TABLE 1—NEW SAFETY ZONES TO BE ADDED TO 33 CFR 165.506—Continued

USCG sector	Location	Regulated area	Enforcement period(s) *
	North Atlantic Ocean, Virginia Beach, VA.	All waters of the North Atlantic Ocean within a 300-yard radius of the center located at approximate position latitude 36°50′29.91″ N, longitude 075°58′05.36″ W, located off the beach between 10th and 15th Streets.	One period, three days.
Coast Guard Sector North Carolina—COTP Zone.	Bath Creek, Bath, NC	All waters on Bath Creek within a 300-yard radius of approximate position 35°28′05″ N, 076°48′56″ W, Bath, NC.	One period, two days.
	Atlantic Intracoastal Waterway, Surf City, NC.	All waters of the Atlantic Intracoastal Waterway within a 300-yard radius of approximate position latitude 34°25′46″N, longitude 077°33′01″W, in Surf City, NC.	One period, one day.
	Neuse River, New Bern, NC.	All waters within a 300-yard radius of the fireworks launch location at approximate position latitude 35°06′23″N, longitude 077°01′48″W, on the Neuse River, New Bern, NC.	One period, one day.

Revised Safety Zones

TABLE 2—CHANGES TO EXISTING EVENTS IN 33 CFR 165.506

Current table to § 165.506 entry	Location	Revision (date and/or coordinates)	Reason for change
(a.) 5	Barnegat Bay, Barnegat Township, NJ.	dates	Event no longer occurs in September.
(a.) 9	Metedeconk River, Brick Township, NJ.	dates	Event now takes place in June or July instead of July and September.
(a.) 14	Delaware, River, Chester, PA	dates	Event date updated.
(a.) 15	Delaware River, Essington, PA.	dates and coordinates	The location of the safety zone was moved to reflect the updated location of the fireworks barge. Event now occurs in June or July instead of September.
(a.) 18	Rehoboth Bay, DE	dates	The spring occurrence of the event has changed from April to May.
(b.) 2	Severn River and Spa Creek, Annapolis, MD.	dates and coordinates	Safety zone size decreased from a 300-yard radius to a 200-yard radius without negative impact to public safety. December occurrence no longer occurs.
(b.) 3	Upper Potomac River, Washington, DC.	coordinates	Safety zone size decreased from a 300-yard radius to a 200-yard radius without negative impact to public safety.
(b.) 4	Northwest Harbor, Patapsco River, MD.	dates and coordinates	Safety zone size decreased from a 300-yard radius to a 200-yard radius without negative impact to public safety. July and December occurrences removed; added alternative date to September.
(b.) 5	Baltimore Inner Harbor, MD	dates	April, July, and December occurrences no longer occur; added new occurrence in November.
(b.) 8	Patuxent River, Calvert County, MD.	dates and coordinates	The location of the safety zone was moved to reflect the updated location of the fireworks barge closer to shore. Alternative date added.
(b.) 9	Chesapeake Bay, Chesapeake Beach, MD.	dates and coordinates	The location of the safety zone was moved to reflect the updated location of the fireworks barge. Alternative dates added.
(b.) 10	Choptank River, Cambridge, MD.	coordinates	The location of the safety zone was moved to reflect the updated location of the fireworks site to an onshore location.
(b.) 14	Miles River, St. Michaels, MD	coordinates	The location of the safety zone was moved to reflect the updated location offshore.
(b.) 15	Tred Avon River, Oxford, MD	dates and coordinates	The location of the safety zone was moved to reflect the updated location of the fireworks site. Alternative dates added.
(b.) 16	Northeast River, North East, MD.	dates and coordinates	Safety zone size decreased from a 300-yard radius to a 150-yard radius without negative impact to public safety. Alternative August date added.
(b.) 18	Anacostia River, Washington, DC.	coordinates	Safety zone size increased from a 150-yard radius to 600-foot radius without negative impact to public safety.
(b.) 19	Potomac River, Prince William County, VA.	coordinates	Safety zone size decreased from a 200-yard radius to 150-yard radius without negative impact to public safety.
(b.) 21	Isle of Wight Bay, Ocean City, MD.	dates and coordinates	Safety zone size decreased from a 200 yard radius to 150 yards without negative impact to public safety. Event changed from near Memorial Day to July 4th and near Labor Day.
(b.) 22	Assawoman Bay, Fenwick Island, MD.	dates and coordinates	Safety zone size decreased from a 360-yard radius to 200-yard radius without negative impact to public safety.

TABLE 2—CHANGES TO EXISTING EVENTS IN 33 CFR 165.506—Continued

Current table to § 165.506 entry	Location	Revision (date and/or coordinates)	Reason for change
(b.) 23	Baltimore Harbor, MD	coordinates	Safety zone size decreased from a 280-yard radius to 800-foot radius without negative impact to public safety. April Occurrence removed.
(b.) 24	Chester River, Kent Island Narrows, MD.	dates and coordinates	Safety zone moved to a more open shoreside location and reduced from a 300-yard radius to 800-foot radius without negative impact to public safety. Alternative date added.
(c.) 6	Chesapeake Bay, Virginia Beach, VA.	Dates	Alternative date added for planning flexibility.
(d.) 2	Cape Fear River, Wilmington, NC.	dates	Alternative date added to the April occurrence.
(d.) 3	Green Creek and Smith Creek, Oriental, NC.	coordinates	Language ''approximate'' added to be clearer and consistent with other entries.
(d.) 4	Pasquotank River, Elizabeth City, NC.	dates and coordinates	Language ''located approximately 400 yards north of Cottage Point, NC'' removed to be clearer and consistent with other entries. May occurrences added.
(d.) 7	Pamilico River, Washington, NC.	coordinates	Language ''the fireworks launch site at approximate position'' added to be clearer and consistent with other entries.
(d.) 8	Neuse River, New Bern, NC	coordinates	Language ''located 420 yards north of the New Bern Twin Span, high rise bridge'' removed to be clearer and consistent with other entries.
(d.) 13	Atlantic Intracoastal Waterway, Swansboro, NC.	coordinates	Language ''the fireworks launch position at'' and ''near Swansboro'' added and ''on Pelican Island'' removed to be clearer and consistent with other entries.
(d.) 14	Shallowbag Bay, Manteo, NC	coordinates	The safety zone was increased from a 200-yard radius to a 300-yard radius to account for larger fireworks display.

Safety Zones To Be Removed

TABLE 3—SAFETY ZONES TO BE REMOVED FROM THE TABLE TO 33 CFR 165.506

Current table to § 165.506 entry	Date(s)	Location	Reason for removal
(a.) 1	July 2nd, 3rd, 4th, or 5th	North Atlantic Ocean, Bethany Beach, DE.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(a.) (2)	Labor Day	Indian River Bay, DE	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(a.) (3)	July 2	North Atlantic Ocean, Rehoboth Beach, DE.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(a.) (8)	July 2nd, 3rd, 4th, or 5th August—3rd Sunday.	Great Egg Harbor Inlet, Margate City, NJ.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(a.) 10	July 2nd, 3rd, 4th, or 5th	North Atlantic Ocean, Atlantic City, NJ.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(a.) 11	July 2nd, 3rd, 4th or 5th October—1st or 2nd Saturday.	North Atlantic Ocean, Ocean City, NJ.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(a.) 17	July 2nd, 3rd, 4th, or 5th	North Atlantic Ocean, Sea Isle, NJ.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(b.) 1	April—1st, 2nd, or 3rd Saturday.	Washington Channel, Potomac River, Washington, DC.	Event no longer held at this location.
(b.) 7	July 4th; December 31st	Northwest Harbor Patapsco River, MD.	Event no longer held at this location.
(b.) 11	July—2nd or 3rd or last Saturday.	Potomac River, Fairview Beach, Charles County, MD.	Event no longer held at this location.
(b.) 12	July—day before Independence Day holiday and July 4th; November—3rd Thursday, 3rd Saturday and last Friday; December—1st, 2nd and 3rd Friday.	Potomac River, National Harbor, MD.	Event no longer held at this location.
(c.) 2	September—last Friday or October—1st Friday.	York Rivers, West Point, VA	Event no longer held at this location.
(c.) 4	July 4th, July 5th, July 6th, or July 7th.	James River, Newport News, VA.	Event no longer held at this location.

TABLE 3—SAFETY ZONES TO BE REMOVED FROM THE TABLE TO 33 CFR 165.506—Continued

Current table to § 165.506 entry	Date(s)	Location	Reason for removal
(c.) 7	July 4th; December 31st; January 1st.	Elizabeth River Southern Branch, Norfolk, VA.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(c.) 8	July—3rd Saturday	John H. Kerr Reservoir, Clarksville, VA.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(c.) 10	September—last Saturday or October—1st Saturday.	North Atlantic Ocean Safety Zone B, Virginia Beach, VA.	Removing safety zone and deferring to existing navigation rules does not negatively impact public safety.
(c.) 11	Friday, Saturday and Sunday Labor Day Weekend.	North Atlantic Ocean Safety Zone C, Virginia Beach, VA.	Event no longer held at this location.
(c.) 14	July—3rd, 4th, and 5th	Great Wicomico River, Mila, VA.	Event no longer held at this location.
(c.) 15	July—1st Friday, Saturday and Sunday.	Cockrell's Creek, Reedville, VA.	Event no longer held at this location.
(c.) 16	May—last Sunday	James River, Richmond, VA	Event no longer held at this location.
(c.) 17	June—last Saturday	Rappahannock River, Tappahannock, VA.	Event no longer held at this location.
(c.) 19	July 3rd or 4th	Pagan River, Smithfield, VA	Event no longer held at this location.
(c.) 20	July 4th	Sandbridge Shores, Virginia Beach, VA.	Event no longer held at this location.
(c.) 22	July 3rd, 4th, or 5th	Urbanna Creek, Urbanna, VA	Event no longer held at this location.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the short amount of time that vessels will be restricted from certain parts of the waterway and the small size of these areas that are usually positioned away from high vessel traffic zones. Generally vessels would not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the regulated areas. Advance notifications will also be made to the local maritime community by issuance of Local Notice to Mariners, Broadcast Notice to Mariners via VHF–FM marine channel 16, Marine Safety Information or Security Bulletins so mariners can adjust their plans accordingly. Notifications to the public for most events will typically be made by local newspapers, radio and TV stations. The Coast Guard anticipates that these safety zones will only be enforced for limited durations, less than 24 hours, occurring on specific dates throughout the year.

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 received zero comments from the Small Business Administration on this rulemaking. 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 through a safety zone may be small entities, for the reasons stated in section IV.A above, this rule would not have a significant economic impact on any vessel owner or operator. These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The Coast Guard will ensure that small entities are able to operate in the areas where events are occurring to the extent possible while ensuring the safety of the public. The enforcement period will be short in duration and, in many of the areas, vessels can transit safely around the safety zone. Generally permission to enter, remain in, or transit through these regulated areas during the enforcement may be given when deemed safe to do so by the Event PATCOM on scene.

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 implementation of regulations within 33 CFR part 165 that apply to recurring safety zones are for fireworks displays that take place either on or over the navigable waters of the United States. Some events by their nature may introduce potential for adverse impact on the safety or other interest of waterway users or waterfront infrastructure within or close proximity to the event area. It is categorically excluded from further review under paragraph L[60] 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. 00170.1, Revision No. 1.2.

■ 2. Revise § 165.506 to read as follows:

§ 165.506 Safety Zones; Fireworks Displays in the Fifth Coast Guard District.

(a) *Definitions.* The following definitions apply to this section:

Event Patrol Commander or *Event PATCOM* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector—COTP to enforce these regulations.

Official patrol means any vessel assigned or approved by the respective Captain of the Port (COTP) with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign, or any state or local law enforcement vessel approved by the COTP in accordance with current local agreements.

(b) *Applicability.* This section applies to the safety zones listed in paragraph (h) of this section.

(c) *Enforcement periods and COTP notification to the public.* The COTP for the area where an event will be held will annually notify the public of each enforcement of a safety zone in paragraph (h) of this section by all appropriate means to affect the widest publicity among the affected public, including by Local Notices to Mariners and by Broadcast Notice to Mariners over VHF–FM marine band radio. The announcement will contain the details of the fireworks display, including the date(s) and time(s) of the enforcement period of the regulation with respect to that safety zone and the affected geographical area. Broadcasts may be made for these events beginning 24 to 48 hours before the event is scheduled to begin. The enforcement period(s) for each safety zone in paragraph (h) of this section is subject to change, but the duration of enforcement will remain the same, or nearly the same, total amount of time as stated in its table. An event may be conducted on the day following the date listed in paragraph (h) of this section in the case of inclement weather. Unless the COTP notifies the public otherwise, the safety zones in paragraph (h) of this section will be enforced from 5:30 p.m. on the date listed in paragraph (h) to 1 a.m. the date following the last date listed in paragraph (h) for an event.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) Vessels may not enter, remain in, or transit through the safety zones during enforcement unless authorized to do so by the COTP or the Event PATCOM.

(3) The Coast Guard may assign an official patrol to each fireworks display listed in paragraph (h) of this section. For each fireworks display assigned a patrol, a Coast Guard Event Patrol Commander (Event PATCOM) will be assigned to oversee the patrol. All persons and vessels must comply with the instructions of the Coast Guard COTP, Event PATCOM, or the official patrol. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel must proceed as directed.

(e) *Warning signs.* (1) The pyrotechnic operator, or the agent of a professional pyrotechnics company, contracted by an event sponsor to conduct the fireworks display must ensure that a warning sign is affixed to the port and starboard side of the floating platform and visible each day the safety zone will be enforced. For a shore-based launch site, the pyrotechnic operator must ensure a warning sign is visible 3 feet above the ground level, on a post immediately adjacent to the shoreline, facing the water each day the safety zone will be enforced.

(2) The warning sign in paragraph (e)(1) of this section will be labeled

''FIREWORKS—DANGER—STAY AWAY''. The sign must be: Diamond shaped, sized 4 feet by 4 feet, have a white background, and have a 3-inch orange retro-reflective border. The word ''DANGER'' must be in 10-inch black block letters centered on the sign. The words ''FIREWORKS'' and ''STAY AWAY'' must be in 6-inch black block letters placed above and below the word ''DANGER''.

(f) *Postponement or cancellation.* The COTP or Event PATCOM may order the postponement or cancellation of a fireworks display at any time if, in their sole discretion, it is determined that the display cannot be conducted in a safe manner.

(g) *Contact information.* The public should contact the Coast Guard COTP for the area in which the event is occurring if they have questions about these safety zones. Contact information is listed below. For a description of the geographical area of each Coast Guard Sector—Captain of the Port zone, please see 33 CFR 3.25.

(1) Coast Guard Sector Delaware Bay—Captain of the Port Zone, Philadelphia, Pennsylvania: (215) 271–4940, email: *D05-smb-secdelbay-WWM@uscg.mil.*

(2) Coast Guard Sector Maryland-National Capital Region—Captain of the Port Zone, Baltimore, Maryland: (410) 576–2525, email: *D05-DG-SectorMD-NCR-MarineEvents@uscg.mil.*

(3) Coast Guard Sector Virginia—Captain of the Port Zone, Portsmouth, Virginia: (757) 483–8567; email: *D05-DG-SECTORVA-WTRWAY@uscg.mil.*

(4) Coast Guard Sector North Carolina—Captain of the Port Zone, Wilmington, North Carolina: (910) 343–3882, email: *ncmarineevents@uscg.mil.*

(h) *Tables to § 165.506(h).* All coordinates listed reference Datum NAD 1983. As noted in paragraph (c) of this section, the enforcement period for each of the listed safety zones is subject to change.

(1) Coast Guard Sector Delaware Bay—COTP Zone

TABLE 1 TO PARAGRAPH (h)(1)

No.	Enforcement period(s)	Location	Safety zone—regulated area
1	July 2nd, 3rd, 4th or 5th	North Atlantic Ocean, Avalon, NJ; Safety Zone.	The waters of the North Atlantic Ocean within a 500-yard radius of the fireworks barge in approximate location latitude 39°06′19.5″ N, longitude 074°42′02.15″ W, in the vicinity of the shoreline at Avalon, NJ.
2	One Saturday or Sunday in June or July.	Barnegat Bay, Barnegat Township, NJ; Safety Zone.	The waters of Barnegat Bay within a 500-yard radius of the fireworks barge in approximate position latitude 39°44′50″ N, longitude 074°11′21″ W, approximately 500 yards north of Conklin Island, NJ.
3	July 2nd, 3rd, 4th or 5th	North Atlantic Ocean, Cape May, NJ; Safety Zone.	The waters of the North Atlantic Ocean within a 500-yard radius of the fireworks barge in approximate location latitude 38°55′36″ N, longitude 074°55′26″ W, immediately adjacent to the shoreline at Cape May, NJ.
4	July 2nd, 3rd, 4th or 5th	Delaware Bay, North Cape May, NJ; Safety Zone.	All waters of the Delaware Bay within a 360-yard radius of the fireworks barge in approximate position latitude 38°58′00″ N, longitude 074°58′30″ W.
5	Each Thursday in July	Metedeconk River, Brick Township, NJ; Safety Zone.	The waters of the Metedeconk River within a 300-yard radius of the fireworks launch platform in approximate position latitude 40°03′24″ N, longitude 074°06′42″ W, near the shoreline at Brick Township, NJ.
6	4th Saturday in May	Barnegat Bay, Ocean Township, NJ; Safety Zone.	All waters of Barnegat Bay within a 500-yard radius of the fireworks barge in approximate position latitude 39°47′33″ N, longitude 074°10′46″ W.
7	July 2nd, 3rd, 4th, or 5th	Little Egg Harbor, Parker Island, NJ; Safety Zone.	All waters of Little Egg Harbor within a 500-yard radius of the fireworks barge in approximate position latitude 39°34′18″ N, longitude 074°14′43″ W, approximately 50 yards north of Parkers Island.
8	Any day(s) from January 1st through December 31st specified by Notice of Enforcement published in the **Federal Register** and broadcast via Broadcast Notice to Mariners.	Delaware River, Chester, PA; Safety Zone.	All waters of the Delaware River near Chester, PA, just south of the Commodore Barry Bridge within a 500-yard radius of the fireworks barge located in approximate position latitude 39°49′43.2″ N, longitude 075°22′42″ W.
9	One Saturday or Sunday in either June or July.	Delaware River, Essington, PA; Safety Zone.	All waters of the Delaware River near Essington, PA, west of Little Tinicum Island within a 250-yard radius of the fireworks barge located in the approximate position latitude 39°51′27″ N, longitude 075°18′19″ W.
10	Any day from January 1st through December 31st specified by Notice of Enforcement published in the **Federal Register** and broadcast via Broadcast Notice to Mariners.	Delaware River, Philadelphia, PA; Safety Zone.	All waters of Delaware River, adjacent to Penn's Landing, Philadelphia, PA, within a 500-yard radius of a fireworks barge at approximate position latitude 39°56′49″ N, longitude 075°08′11″ W.
11	One Friday, Saturday or Sunday in May; and July 2nd, 3rd, 4th or 5th; and December 31st.	Rehoboth Bay, DE; Safety Zone.	All waters within a 500-yard radius of a fireworks barge located at position latitude 38°41′21″ N, longitude 075°05′00″ W at Rehoboth Bay near Dewey Beach, DE.

TABLE 1 TO PARAGRAPH (h)(1)—Continued

No.	Enforcement period(s)	Location	Safety zone—regulated area
12	July 2nd, 3rd, 4th or 5th	Delaware Bay, Lewes, DE; Safety Zone.	All waters of Delaware Bay off Lewes, DE, within a 350 yard radius of the barge anchored in approximate position 38°47′12″ N, 075°07′48″ W.
13	One Saturday in July	Great Egg Harbor Bay, Ocean City, NJ; Safety Zone.	The waters of the Great Egg Harbor Bay within a 300-yard radius of the fireworks barge in approximate position latitude 39°17′24″ N, longitude 074°34′31″ W, adjacent to shoreline of Ocean City, NJ.

(2) Coast Guard Sector Maryland-National Capital Region—COTP Zone

TABLE 2 TO PARAGRAPH (h)(2)

No.	Enforcement period(s)	Location	Safety zone—regulated area
1	Any day(s) from March 1st through December 31st. Whenever feasible, the COTP will publish a Notice of Enforcement at least 2 days in advance of the event in the **Federal Register**. Each day that the duration of each enforcement of the zone is expected to be 5 hours or less.	Washington Channel, Upper Potomac River, Washington, DC; Safety Zone.	The waters of the Washington Channel within a 200-foot radius of the fireworks floating platform which will be located within an area bounded on the south by latitude 38°52′30″ N, and bounded on the north by the southern extent of the Francis Case (I–395) Memorial Bridge, located at Washington, DC.
2	July 4th	Severn River and Spa Creek, Annapolis, MD; Safety Zone.	The waters of the Severn River and Spa Creek within a 200-yard radius of the fireworks barge in approximate position latitude 38°58′38″ N, longitude 076°28′41″ W, located near the entrance to Spa Creek, at Annapolis, MD.
3	December 31st	Upper Potomac River, Washington, DC; Safety Zone.	The waters of the Upper Potomac River within a 200-yard radius of the fireworks barge in approximate position 38°48′14″ N, 077°02′10″ W, located near the waterfront (King Street) at Alexandria, VA.
4	June 14th; September—2nd or 3rd Saturday.	Northwest Harbor (East Channel), Patapsco River, MD; Safety Zone.	The waters of the Patapsco River within a 200-yard radius of the fireworks barge in approximate position latitude 39°15′55.15″ N, longitude 076°34′32.66″ W, located adjacent to the East Channel of Northwest Harbor, at Baltimore, MD.
5	May—2nd or 3rd Thursday; November—2nd Saturday or Sunday.	Baltimore Inner Harbor, Patapsco River, MD; Safety Zone.	The waters of the Patapsco River within a 100-yard radius of the fireworks barge in approximate position latitude 39°17′01″ N, longitude 076°36′31″ W, located at the entrance to Baltimore Inner Harbor, approximately 125 yards southwest of pier 3, at Baltimore, MD.
6	May—2nd or 3rd Thursday or Friday; July 4th; December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	The waters of the Patapsco River within a 100-yard radius of approximate position latitude 39°17′04″ N, longitude 076°36′36″ W, located in Baltimore Inner Harbor, approximately 125 yards southeast of pier 1, at Baltimore, MD.
7	April—1st, 2nd or 3rd Saturday or Sunday.	Anacostia River, Washington, DC; Safety Zone.	All navigable waters of the Anacostia River within a 400-foot radius of the fireworks barge in approximate position latitude 38°52′16.3″ N, longitude 077°00′09.7″ W, located at Washington, DC.
8	July 4th or the Friday or Saturday before or after Independence Day (observed).	Patuxent River, Calvert County, MD; Safety Zone.	The waters of the Patuxent River within a 200-yard radius of the fireworks barge located at latitude 38°19′17″ N, longitude 076°27′45″ W, approximately 700 feet from shore at Solomons Island, MD.
9	July 3rd, or the Friday after Independence Day (observed).	Chesapeake Bay, Chesapeake Beach, MD, Safety Zone.	The waters of the Chesapeake Bay within a 200-yard radius of the fireworks barge in approximate position latitude 38°41'36.36″ N, longitude 076°31′29.58″ W, and within a 200-yard radius of the fireworks barge in approximate position latitude 38°41′27.84″ N, longitude 076°31′28.50″ W, located near Chesapeake Beach, MD.
10	July 4th	Choptank River, Cambridge, MD; Safety Zone.	The waters of the Choptank River within a 300-yard radius of the fireworks launch site at Great Marsh Point, in approximate position latitude 38°35′05″ N, longitude 076°04′41″ W, located at Cambridge, MD.

TABLE 2 TO PARAGRAPH (h)(2)—Continued

No.	Enforcement period(s)	Location	Safety zone—regulated area
11	July 4th, or Saturday or Sunday before or after Independence Day (observed).	Middle River, Baltimore County, MD; Safety Zone.	All waters of the Middle River within a 200-yard radius of the fireworks barge in approximate position latitude 39°18′25″ N, longitude 076°24′27″ W, located near Wilson Point in Baltimore County, MD.
12	July 4th, or the Saturday or Sunday before or after Independence Day (observed).	Susquehanna River, Havre de Grace, MD; Safety Zone.	All waters of the Susquehanna River within a 200-yard radius of the fireworks barge in approximate position latitude 39°32′19″ N, longitude 076°04′58.3″ W, located at Havre de Grace, MD.
13	July 4th or the Saturday or Sunday before or after Independence Day (observed).	Susquehanna River, Havre de Grace, MD; Safety Zone.	The waters of the Susquehanna River within a 300-yard radius of approximate position latitude 39°32′06″ N, longitude 076°05′22″ W, located on the island at Millard Tydings Memorial Park, at Havre de Grace, MD.
14	July 4th, or the Saturday before or after Independence Day (observed).	Miles River, St. Michaels, MD; Safety Zone.	All navigable waters of the Miles River within a 150-yard radius of the fireworks barge in approximate position latitude 38°47′55.10″ N, longitude 076°12′43.75″ W, located at the entrance to Long Haul Creek.
15	December 31st	Spa Creek, Annapolis, MD; Safety Zone.	The waters of Spa Creek within a 400-foot radius of the fireworks barge in approximate position latitude 38°58′32.48″ N, longitude 076°28′57.55″ W, located at Annapolis, MD.
16	July 3rd, or the Friday after Independence Day (observed).	Tred Avon River, Oxford, MD; Safety Zone.	The waters of the Tred Avon River within a 150-yard radius of the fireworks barge in approximate position latitude 38°41′38.84″ N, longitude 076°10′48.41″ W, approximately 330 yards northwest of the waterfront at Oxford, MD.
17	July 3rd or August 4th	Northeast River, North East, MD; Safety Zone.	All navigable waters of the Northeast River within a 300-yard radius of the fireworks barge in approximate position latitude 39°35′26.3″ N, longitude 075°57′04.9″ W, approximately 400 yards southwest of North East Community Park at North East, MD.
18	July—1st, 2nd or 3rd Saturday.	Upper Potomac River, Washington, DC; Safety Zone.	The waters of the Upper Potomac River within a 300-yard radius of the fireworks barge in approximate position 38°48′38″ N, 077°01′56″ W, located east of Oronoco Bay Park at Alexandria, VA.
19	March through October, at the conclusion of evening MLB games at Washington Nationals Ball Park.	Anacostia River, Washington, DC; Safety Zone.	The waters of the Anacostia River within a 600-foot radius of the fireworks barge in approximate position latitude 38°52′12.71″ N, longitude 077°00′14.08″ W, located near the Nationals Ball Park at Washington, DC.
20	June—last Saturday or July—1st Saturday; July—3rd, 4th or last Saturday September— Saturday before Labor Day (observed).	Potomac River, Prince William County, VA; Safety Zone.	The waters of the Potomac River within a 150-yard radius of the fireworks barge in approximate position latitude 38°34′07.97″ N, longitude 077°15′37.39″ W, located near Cherry Hill, VA.
21	July 4th	North Atlantic Ocean, Ocean City, MD; Safety Zone.	The waters of the North Atlantic Ocean in an area bound by the following points: latitude 38°19′39.9″ N, longitude 075°05′03.2″ W; thence to latitude 38°19′36.7″ N, longitude 075°04′53.5″ W; thence to latitude 38°19′45.6″ N, longitude 075°04′49.3″ W; thence to latitude 38°19′49.1″ N, longitude 075°05′00.5″ W; thence to point of origin. The size of the safety zone extends approximately 300 yards offshore from the fireworks launch area located at the high water mark on the beach at Ocean City, MD.
22	May—Sunday before Memorial Day (observed) July 4th August/September—Sunday before Labor Day (observed) or Labor Day (observed).	Isle of Wight Bay, Ocean City, MD; Safety Zone.	The waters of Isle of Wight Bay within a 150-yard radius of the fireworks barge in approximate position latitude 38°22′31″ N, longitude 075°04′30″ W, located at Ocean City, MD.
23	July 4th	Assawoman Bay, Fenwick Island—Ocean City, MD; Safety Zone.	The waters of Assawoman Bay within a 200-yard radius of the fireworks launch location on the pier at the west end of Northside Park, in approximate position latitude 38°25′54.72″ N, longitude 075°03′53.11″ W, located at Ocean City, MD.
24	July 4th; December 31st	Baltimore Harbor, Baltimore Inner Harbor, MD; Safety Zone.	The waters of Baltimore Harbor, Patapsco River, within an 800-foot radius of the fireworks barge in approximate position latitude 39°16′36.7″ N, longitude 076°35′53.8″ W, located northwest of the Domino Sugar refinery wharf at Baltimore, MD.

TABLE 2 TO PARAGRAPH (h)(2)—Continued

No.	Enforcement period(s)	Location	Safety zone—regulated area
25	July 4th, or the Tuesday, Wednesday or Thursday before Independence Day (observed).	Chester River, Kent Island Narrows, MD, Safety Zone.	All navigable waters of Chester River, Kent Island Narrows (North Approach), within 800 feet of the fireworks launch site at Kent Island in approximate position latitude 38°58′45.0″ N, longitude 076°14′52.8″ W, located in Queen Anne's County, MD.
26	July 3rd, or the Friday, Saturday or Sunday after Independence Day (observed).	Severn River, Sherwood Forest, MD; Safety Zone.	The waters of the Severn River within a 150-yard radius of the fireworks discharge site located at the end of Sherwood Forest Club main pier in approximate position latitude 39°01′54.0″ N, longitude 076°32′41.8″ W, located at Sherwood Forest, MD.
27	July 4th	Patapsco River-Middle Branch, Baltimore, MD; Safety Zone.	The waters of the Middle Branch of the Patapsco River, within an 800-feet radius of the fireworks display in the in approximate position latitude 39°15′31.67″ N, longitude 076°37′13.95″ W, located at Baltimore, MD.

(3) Coast Guard Sector Virginia—COTP Zone

TABLE 3 TO PARAGRAPH (h)(3)

No.	Enforcement period(s)	Location	Safety zone—regulated area
1	July 4th	Linkhorn Bay, Virginia Beach, VA, Safety Zone.	All waters of the Linkhorn Bay within a 400-yard radius of the fireworks display in approximate position latitude 36°52′20″ N, longitude 076°00′38″ W, located near the Cavalier Golf and Yacht Club, Virginia Beach, VA.
2	July 4th	York River, Yorktown, VA, Safety Zone.	All waters of the York River within a 400-yard radius of the fireworks display in approximate position latitude 37°14′14″ N, longitude 076°30′02″ W, located near Yorktown, VA.
3	June—4th Friday; July—1st Friday; July 4th.	Chesapeake Bay, Norfolk, VA, Safety Zone.	All waters of the Chesapeake Bay within a 400-yard radius of the fireworks display located in position latitude 36°57′21″ N, longitude 076°15′00″ W, located near Ocean View Fishing Pier.
4	July 4th	North Atlantic Ocean, Virginia Beach, VA, Safety Zone A.	All waters of the North Atlantic Ocean within a 1,000-yard radius of the center located near the shoreline at approximate position latitude 36°51′12″ N, longitude 075°58′06″ W, located off the beach between 17th and 31st Streets.
5	July 4th	Nansemond River, Suffolk, VA, Safety Zone.	All waters of the Nansemond River within a 350-yard radius of approximate position latitude 36°44′27″ N, longitude 076°34′42″ W, located near Constant's Wharf in Suffolk, VA.
6	July 4th	Chickahominy River, Williamsburg, VA, Safety Zone.	All waters of the Chickahominy River within a 400-yard radius of the fireworks display in approximate position latitude 37°14′50″ N, longitude 076°52′17″ W, near Barrets Point, VA.
7	July 4th; August—1st Friday, Saturday and Sunday; December 31st.	Cape Charles Harbor, Cape Charles, VA, Safety Zone.	All waters of Cape Charles Harbor located within a 125 yard-radius of the fireworks display at approximate position latitude 37°15′46.5″ N, longitude 076°01′30.3″ W near Cape Charles, VA.
8	July 4th, 5th or 6th	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of Chesapeake Bay located within a 200-yard radius of the fireworks display at approximate position latitude 36°54′58.18″ N, longitude 076°06′44.3″ W near Virginia Beach, VA.
9	July 3rd, 4th or 5th	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of the Chesapeake Bay 400 yard radius of the fireworks display in approximate position latitude 36°55′02″ N, longitude 076°03′27″ W, located at the First Landing State Park at Virginia Beach, Virginia.
10	July 4th	Elizabeth River Eastern Branch, Norfolk, VA; Safety Zone.	All waters of Eastern Branch Elizabeth River within the area along the shoreline immediately adjacent to Harbor Park Stadium ball park and outward into the river bound by a line drawn from latitude 36°50′30″ N, longitude 076°16′39.9″ W, thence south to 36°50′26.6″ N, longitude 076°16′39″ W, thence northwest to 36°50′28.8″ N, longitude 076°16′49.1″ W, thence north to 36°50′30.9″ N, longitude 076°16′48.6″ W, thence east along the shoreline to point of origin.

TABLE 3 TO PARAGRAPH (h)(3)—Continued

No.	Enforcement period(s)	Location	Safety zone—regulated area
11	April: Last Friday, Saturday and Sunday.	North Atlantic Ocean, Virginia Beach, VA, Safety Zone.	All water of the North Atlantic Ocean within a 300-yard radius of approximate position latitude 36°50′29.91″ N, longitude 075°58′05.36″ W, located off the beach between 10th and 15th Streets.

(4) Coast Guard Sector North Carolina—COTP Zone

TABLE 4 TO PARAGRAPH (h)(4)

No.	Enforcement period(s)	Location	Safety zone—regulated area
1	July 4th; October—1st Saturday.	Morehead City Harbor Channel, NC, Safety Zone.	The waters of the Morehead City Harbor Channel that fall within a 360-yard radius of latitude 34°43′01″ N, longitude 076°42′59.6″ W, a position located at the west end of Sugar Loaf Island, NC.
2	April—1st or 2nd Saturday; July 4th; August—3rd Monday; October—1st Saturday.	Cape Fear River, Wilmington, NC, Safety Zone.	The waters of the Cape Fear River within an area bound by a line drawn from the following points: Latitude 34°13′54″ N, longitude 077°57′06″ W; thence northeast to latitude 34°13′57″ N, longitude 077°57′05″ W; thence north to latitude 34°14′11″ N, longitude 077°57′07″ W; thence northwest to latitude 34°14′22″ N, longitude 077°57′19″ W; thence east to latitude 34°14′22″ N, longitude 077°57′06″ W, thence southeast to latitude 34°14′07″ N, longitude 077°57′00″ W; thence south to latitude 34°13′54″ N, longitude 077°56′58″ W; thence to the point of origin, located approximately 500 yards north of Cape Fear Memorial Bridge.
3	July 1st Saturday; July 4th ...	Green Creek and Smith Creek, Oriental, NC, Safety Zone.	The waters of Green Creek and Smith Creek that fall within a 300-yard radius of the fireworks launch site at approximate latitude 35°01′29.6″ N, longitude 076°42′10.4″ W, located near the entrance to the Neuse River in the vicinity of Oriental, NC.
4	May—3rd or 4th Saturday; July 4th.	Pasquotank River, Elizabeth City, NC, Safety Zone.	The waters of the Pasquotank River within a 300-yard radius of the fireworks launch barge in approximate position latitude 36°17′47″ N, longitude 076°12′17″ W.
5	July 4th or 5th	Currituck Sound, Corolla, NC, Safety Zone.	The waters of the Currituck Sound within a 300-yard radius of the fireworks launch site in approximate position latitude 36°22′23.8″ N, longitude 075°49′56.3″ W, located near Whale Head Bay.
6	July 4th; November—3rd Saturday.	Middle Sound, Figure Eight Island, NC, Safety Zone.	The waters of the Figure Eight Island Causeway Channel from latitude 34°16′32″ N, longitude 077°45′32″ W, thence east along the marsh to latitude 34°16′19″ N, longitude 077°44′55″ W, thence south to the causeway at latitude 34°16′16″ N, longitude 077°44′58″ W, thence west along the shoreline to latitude 34°16′29″ N, longitude 077°45′34″ W, thence back to the point of origin.
7	June—2nd Saturday; July 4th	Pamlico River, Washington, NC, Safety Zone.	The waters of Pamlico River and Tar River within a 300-yard radius of the fireworks launch site at approximate position latitude 35°32′25″ N, longitude 077°03′42″ W, a position located on the southwest shore of the Pamlico River, Washington, NC.
8	July 4th	Neuse River, New Bern, NC, Safety Zone.	The waters of the Neuse River within a 360-yard radius of the fireworks barge in approximate position latitude 35°06′07.1″ N, longitude 077°01′35.8″ W.
9	July—1st Saturday or Sunday; July 4th.	Pamlico Sound, Ocracoke, NC, Safety Zone.	The waters of Pamlico Sound with a 300-yard radius of the National Park Service boat launch site at Ocracoke, NC at position latitude 35°07′07″ N, longitude 075°59′16″ W.
10	July 4th; November—Saturday following Thanksgiving Day.	Motts Channel, Banks Channel, Wrightsville Beach, NC, Safety Zone.	The waters of Motts Channel within a 500-yard radius of the fireworks launch site in approximate position latitude 34°12′29″ N, longitude 077°48′27″ W, approximately 560 yards south of Sea Path Marina, Wrightsville Beach, NC.
11	July 4th	Cape Fear River, Southport, NC, Safety Zone.	The waters of the Cape Fear River within a 600-yard radius of the fireworks barge in approximate position latitude 33°54′40″ N, longitude 078°01′18″ W, approximately 700 yards south of the waterfront at Southport, NC.

TABLE 4 TO PARAGRAPH (h)(4)—Continued

No.	Enforcement period(s)	Location	Safety zone—regulated area
12	July 4th	Big Foot Slough, Ocracoke, NC, Safety Zone.	The waters of Big Foot Slough within a 300-yard radius of the fireworks launch site in approximate position latitude 35°06′54″ N, longitude 075°59′24″ W, approximately 100 yards west of the Silver Lake Entrance Channel at Ocracoke, NC.
13	August—1st Tuesday	New River, Jacksonville, NC, Safety Zone.	The waters of the New River within a 300-yard radius of the fireworks launch site in approximate position latitude 34°44′45″ N, longitude 077°26′18″ W, approximately one half mile south of the Hwy 17 Bridge, Jacksonville, NC.
14	May—3rd or 4th Saturday; July 4th.	Bath Creek, Bath, NC, Safety Zone.	The waters on Bath Creek within a 300-yard radius of approximate position 35°28′05″ N, 076°48′56″ W, Bath, NC.
15	July 4th; October—2nd Saturday.	Atlantic Intracoastal Waterway, Swansboro, NC, Safety Zone.	The waters of the Atlantic Intracoastal Waterway within a 300-yard radius of the fireworks launch position at approximate position latitude 34°41′02″ N, longitude 077°07′04″ W, located near Swansboro, NC.
16	September—4th or last Saturday.	Shallowbag Bay, Manteo, NC; Safety Zone.	The waters of Shallowbag Bay within a 300-yard radius of a fireworks barge anchored at latitude 35°54′31″ N, longitude 075°39′42″ W.
17	July—3rd or 4th	Atlantic Intracoastal Waterway, Surf City, NC, Safety Zone.	The waters of the Atlantic Intracoastal Waterway within a 300-yard radius of approximate position latitude 34°25′46″ N, longitude 077°33′01″ W, in Surf City, NC.
18	September—3rd, 4th, or last Friday or Saturday.	Neuse River, New Bern, NC, Safety Zone.	The waters within a 300-yard radius of the fireworks launch location at approximate position latitude 35°06′23″ N, longitude 077°01′48″ W, on the Neuse River, New Bern, NC.

Dated: October 1, 2021.

Laura M. Dickey,

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

[FR Doc. 2021–22496 Filed 10–14–21; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[GN Docket Nos. 18–122, 21–320; DA 21–1223; FR ID 52434]

Implementation of the Commission's Incremental Reduction Plan for Phase I Accelerated Relocation Payments

AGENCY: Federal Communications Commission.

ACTION: Final action.

SUMMARY: In this document, the Wireless Telecommunications Bureau (WTB or Bureau) announces its implementation of the Commission's incremental reduction plan for Phase I Accelerated Relocation Payments (ARP) relating to the ongoing transition of the 3.7 GHz band. On August 4, 2021, as directed by the Commission in the *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Report and Order and Proposed Modification* (*3.7 GHz Report and Order*), WTB issued a Public Notice (PN) to seek comment on its proposed approach for calculating an incremental reduction for an eligible space station operator's ARP due to its failure to meet the Phase I Accelerated Relocation Deadline. After reviewing the record, the Bureau adopts the proposals outlined in the *Phase I Incremental Reduction Comment PN* with some clarifications.

DATES: Phase I Accelerated Relocation Certifications are due December 5, 2021.

FOR FURTHER INFORMATION CONTACT: Susan Mort, Wireless Telecommunications Bureau, at *Susan.Mort@fcc.gov* or 202–418–2429.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Public Notice, in GN Docket Nos. 18–122, 21–320; DA 21–1223, released on September 29, 2021. The complete text of this document is available on the Commission's website at *https://www.fcc.gov/document/wtb-announces-phase-i-c-band-incremental-reduction-plan.*

Paperwork Reduction Act

This document does not contain new or 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).

Congressional Review Act

The Commission will not send a copy of this document to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted action is an action of particular applicability.

Synopsis

With this document, the Wireless Telecommunications Bureau (WTB or Bureau) announces its implementation of the Commission's incremental reduction plan for Phase I Accelerated Relocation Payments (ARP) relating to the ongoing transition of the 3.7 GHz band. On August 4, 2021 (86 FR 44329, August 12, 2021), as directed by the Commission in the *3.7 GHz Report and Order* (85 FR 22804, April 23, 2020), WTB issued a Public Notice to seek comment on its proposed approach for calculating an incremental reduction for an eligible space station operator's ARP due to its failure to meet the Phase I Accelerated Relocation Deadline. The Bureau received six comments. After reviewing this record, we adopt the proposals outlined in the *Phase I Incremental Reduction Comment PN* (86 FR 44329, August 12, 2021), with certain clarifications described below.

In the *3.7 GHz Report and Order,* the Commission adopted rules to make 280 megahertz of mid-band spectrum available for flexible use (plus a 20 megahertz guard band) throughout the

contiguous United States by transitioning existing services out of the lower portion of the band and into the upper 200 megahertz of the C-band (*i.e.,* 4.0–4.2 GHz). The *3.7 GHz Report and Order* established that new 3.7 GHz Service licensees would reimburse the reasonable, actual relocation costs of eligible FSS space station operators, incumbent FSS earth station operators, and incumbent Fixed Service licensees (collectively, incumbents) to transition out of the band.

The *3.7 GHz Report and Order* established a deadline of December 5, 2025, by which incumbent space station operators were to complete the transition of their operations to the upper 200 megahertz of the band, but it also provided an opportunity for accelerated clearing of the band by allowing eligible space station operators to voluntarily commit to relocate on a two-phased accelerated schedule, with a Phase I deadline of December 5, 2021, and a Phase II deadline of December 5, 2023. All five eligible space station operators elected to transition on the accelerated schedule. By electing accelerated relocation, the eligible space station operators have, among other things, voluntarily committed to perform all the tasks necessary to enable any incumbent earth station (except those that have elected instead to receive lump sum payments) that receives or sends C-band signals to a space station owned by that operator to maintain that functionality in the upper 200 megahertz of the band. The *3.7 GHz Report and Order* stated that ''[t]o the extent eligible space station operators can meet the Phase I and Phase II Accelerated Relocation Deadlines, they will be eligible to receive the accelerated relocation payments associated with those deadlines.'' Once validated, the ARPs will be disbursed by the Relocation Payment Clearinghouse (Clearinghouse).

The *3.7 GHz Report and Order* specified that an ''eligible space station operator's satisfaction of the Accelerated Relocation Deadlines will be determined by the timely filing of a Certification of Accelerated Relocation demonstrating, in good faith, that it has completed the necessary clearing actions to satisfy each deadline,'' and directed WTB to prescribe the form of such Certifications. Further, ''the Bureau, Clearinghouse, and relevant stakeholders will have the opportunity to review the Certification of Accelerated Relocation and identify potential deficiencies.''

The *3.7 GHz Report and Order* also directed that if ''credible challenges as to the space station operator's satisfaction of the relevant deadline are made, the Bureau will issue a public notice identifying such challenges and will render a final decision as to the validity of the certification no later than 60 days from its filing.'' Absent notice from WTB of deficiencies in the Certification within 30 days of its filing, the Certification will be deemed validated. Following validation, the Clearinghouse shall promptly notify overlay licensees, who must pay the ARP to the Clearinghouse within 60 days of the notice. The Clearinghouse must then disburse the ARP to the eligible space station operator within seven (7) days of receipt. Should an eligible space station operator miss the Phase I or Phase II deadline, it may still receive a reduced, but non-zero, ARP if it otherwise meets the Certification requirements within six months after the relevant Accelerated Relocation Deadline.

The *3.7 GHz Report and Order* directed WTB to: (1) ''Prescribe the form'' of Certifications and any challenges by relevant stakeholders, and (2) establish the process for how such challenges will impact incremental decreases in the ARP. On August 4, 2021, the Bureau issued a Public Notice implementing filing procedures for Phase I Certifications and related challenges. In the *Phase I Incremental Reduction Comment PN,* also released on August 4, 2021, the Bureau sought comment on how different Phase I Certification scenarios would affect both the challenge process and incremental decreases in the ARP.

General Matters. In the *Phase I Incremental Reduction Comment PN,* we sought comment on specific timing scenarios involving credible challenges filed by relevant stakeholders in connection with the ARP certification process. As part of this discussion, WTB also noted the *3.7 GHz Report & Order* directive that ''[f]ollowing validation, the Clearinghouse shall promptly notify overlay licensees, who must pay the ARP to the Clearinghouse within 60 days of the notice.'' Commenters in response asked the Bureau to define the terms ''credible challenge,'' ''relevant stakeholders,'' and ''promptly,'' which are all terms used by the Commission in the *3.7 GHz Report and Order.* The *Phase I Incremental Reduction Comment PN* did not seek comment on these definitions and we decline to take action on these requests. We believe the Certification and challenge process will be able to proceed without impediment in the absence of such clarifications and that it is more appropriate to address these questions on a case-by-case basis.

Several commenters also raised matters directly addressed in the *Phase I ARP Certification Procedures PN* (86 FR 44359, August 12, 2021) or otherwise outside the scope of the instant public notice. As these topics were not raised in the *Phase I Incremental Reduction Comment PN,* we do not address them here.

Certification and Incremental Reduction Scenarios. At its outset, the *Phase I Incremental Reduction Comment PN* recognized the two most straightforward Certification and incremental reduction scenarios. First, all Certifications filed without subsequent change—whether by amendment or superseded by a refiled Certification—will not be subject to any incremental decrease in the ARP if the Certification was filed before the Phase I deadline and is ultimately validated. Second, any Certifications filed for the first time after the Phase I deadline and later validated without amendment or refiling will be subject to the incremental reduction schedule established by the Commission in the *3.7 GHz Report and Order,* using the Certification filing date as the ''Date of Completion'' for determining the applicable percentage by which the ARP will be reduced. In both situations, the challenge process laid out in in the *Phase I ARP Certification Procedures PN* would remain unaffected. No commenters disagreed with these baseline premises, and we adopt this approach.

The Bureau also sought comment on more complex scenarios involving the potential amendment or refiling of Certifications, as well as on how to take into account possible remedial actions and agreements between eligible space station operators and other stakeholders as part of the Certification process. After considering the record, we generally adopt the approach proposed in the *Phase I Incremental Reduction Comment PN,* with certain clarifications described below.

Amending or Refiling a Certification by the Phase I Deadline. In the *3.7 GHz Report and Order,* the Commission stated that it was adopting accelerated relocation rules ''to facilitate the expeditious deployment of next-generation services nationwide across the entire 280 megahertz made available for terrestrial use.'' In furtherance of this goal, we concluded in the *Phase I Incremental Reduction Comment PN* and affirm here that eligible space station operators may amend or refile an incomplete or invalid Certification without any incremental reduction in the ARP if, before the Phase I deadline, the eligible space station operator

corrects any underlying problems and submits an amended or refiled Certification that has no invalidating infirmities. Such amendment or refiling may be either on the eligible space station operator's own motion, in response to a challenge, or in response to the Bureau's determination that the original Certification was invalid. If WTB ultimately determines (before or after the Phase I deadline) that all the underlying problems have been resolved, the certifying space station operator will, in fact, have come into compliance with all the requirements for claiming the ARP by the Phase I deadline, *provided* the operator had resolved those problems before said deadline *and* such resolutions were reflected by the filing—also before this deadline—of an amendment or refiled Certification.

T-Mobile agrees with the Bureau's proposal that, in these circumstances, the amended or refiled Certification should take the place of the original and start a new challenge process. Eutelsat and Verizon support limiting new challenges to matters involving changes to the original Certification, while Intelsat advocates that we consider only ''substantial'' or ''major'' amendments or revisions as starting a new comment cycle and review period. Based upon the record, we agree with our initial proposal from the *Phase I Incremental Reduction Comment PN.* New challenges to an amended or refiled Certification will be permitted but must be limited to matters involving changes made to the original Certification (whether the addition of new information, modifications of information that had been included in the original Certification, or the deletion of previously included information). While we agree that limiting the scope of challenges to an amendment or refiling in this way is warranted, we decline to distinguish between different types of substantive amendments or revisions as Intelsat suggests. We did not seek comment on this issue in the *Phase I Incremental Reduction Comment PN.* Additionally, we note that adopting Intelsat's approach could lead to confusion and disputes in the record over whether an amendment was ''substantive'' or ''major,'' taking the focus off the Commission's goal for the certification process—to accurately determine, based on the record, whether an operator has fully satisfied its Phase I clearing obligations by December 5, 2021. We reiterate our earlier tentative conclusion that if the Bureau has not already ruled on the original Certification, we may nevertheless consider all points raised during the original challenge cycle to the extent those points may still be relevant to the amended or refiled Certification.

Several commenters also raised timing considerations relative to Certification review by the Bureau. In response, we clarify that where an eligible space station operator either amends or refiles its Certification, the filing date of the amendment or refiled Certification will open a new 30-day window for the identification of any deficiencies by the Bureau in the entire Certification, as amended or refiled. Further, it also triggers a new 60-day window for a final Bureau determination on the validity of the entire Certification, as amended or refiled, where the Bureau identifies any deficiencies in the entire Certification within the new 30-day window. In other words, the amending or refiling of a Certification restarts the clock for Bureau review of that Certification. This clarification conforms with the *3.7 GHz Report and Order*'s directive to the Bureau to ''render a final decision as to the validity of the certification no later than 60 days from its filing,'' because an amendment or refiling will necessarily alter or replace the underlying Certification and otherwise make it impossible to ascertain whether the eligible space station operator had fulfilled its transition responsibilities absent a full review. Indeed, we would risk frustrating the Commission's objective of making an accurate determination on a Certification if we were to conclude, as some satellite operators suggest, that corrections to a Certification or remedial actions made during the 60-day review period would not affect when the date by which a final determination must be made. For instance, if an eligible space station operator were to substantially or entirely replace its Certification fifty-nine (59) days after its original filing and the Bureau took the position that this action had no effect on the timing of a final determination, then both outside parties and the Bureau would be deprived of the ability to assess the Certification's validity before the Bureau issued a final determination, which we believe would be inconsistent with the Commission's directive in the *3.7 GHz Report and Order.* Eligible space station operators are strongly encouraged to ensure their original filings are complete and conform to the requirements specified in our *Phase I ARP Certification Procedures PN* to avoid the need for any amendments or refiling.

We adopt our proposal that, if WTB decides that the amended or refiled Certification was valid, the eligible space station operator's ARP will be based on the filing date of the amended or refiled Certification. As noted above, where the amended or refiled Certification is submitted before the Phase I deadline and that Certification is found to be valid, there will be no reduction in the ARP.

Amending or Refiling a Certification After the Phase I Deadline. As commenters largely focused on the effects of amending or refiling a Certification before the Phase I deadline of December 5, 2021, the record does not reflect detailed input on similar scenarios occurring after the Phase I deadline. We therefore adopt our proposals from the *Phase I Incremental Reduction Comment PN,* consistent with the clarifications articulated above. Thus, if WTB rejects a Certification filed before the Phase I deadline (whether the original or an amended or refiled Certification), then the eligible space station operator will have to finish any incomplete aspects of the transition and file a new Certification that the Bureau will have to find to be valid before its entitlement to an ARP could be determined. If the filing date of this new, valid Certification falls after the Phase I deadline, then the ARP will be subject to the incremental reduction schedule established by the Commission in the *3.7 GHz Report and Order,* as applicable, based on that Certification's filing date. We establish the same treatment in cases where the Bureau has not yet ruled on a Certification and, after the Phase I deadline, the eligible space station operator either submits an amended or refiled Certification on its own motion, or in response to a challenge.

Where a Certification is amended or refiled after the Phase I deadline, we establish the same challenge process as where an amended or refiled Certification is filed before the Phase I deadline. Thus, new challenges to the amended or refiled Certification will be permitted but must be filed within 10 days of the filing of the Certification and be limited to matters involving changes made to the original Certification (whether the addition of new information, modifications of information that had been included in the original Certification, or the deletion of previously included information). If the Bureau has not already ruled on the original Certification, we may nevertheless consider all timely filed points raised during the original challenge cycle (even if that cycle ends after the filing of an amended or refiled Certification) to the extent those points may still be relevant to the amended or refiled Certification.

Accounting for Remedial Action by Eligible Space Station Operators. Subject to the provision on agreements below, we affirm that WTB will consider remedial action taken by an eligible space station operator only if said operator has memorialized that action in a Certification (whether amended or refiled). Thus, if WTB issues a final determination rejecting a Certification, the fact that the eligible space station operator has taken remedial action—after filing its Certification but before WTB's decision—to address the problems in said Certification that had prompted WTB's rejection will not, in and of itself, invalidate or otherwise affect WTB's determination. Rather, for such remedial action to be considered, the eligible space station operator will need to submit an amended or refiled Certification reflecting that remedial action. The amended or refiled Certification will initiate a new challenge process as to those aspects that had not yet been subject to the initial challenge process, will be subject to 60 day review by the Bureau, and will, if accepted as valid, establish a new date by which the eligible space station operator's ARP will be calculated.

Agreements. We adopt our proposal that eligible space station operators and stakeholders (including, but not limited to, incumbent earth station operators) may enter into agreements to resolve any outstanding issues raised in a challenge to a Certification and submit any such agreements to WTB before the Bureau has made a final determination regarding the validity of the Certification without refiling or amending that Certification. For instance, if an eligible space station operator submits a Certification (either before or after the Phase I deadline) that is credibly challenged, and it attempts to address any alleged deficiency before WTB has issued a decision, the eligible space station operator and challenging parties can enter into an agreement(s) to resolve all outstanding issues between those parties and submit this agreement(s) to WTB. If, after review, WTB accepts this agreement(s) as a good faith resolution of issues in the eligible space station operator's Certification, the Bureau will find that the original Certification is valid and dismiss the related outstanding challenges. If such an agreement resolved all outstanding challenges, the Bureau would calculate the ARP as of the date the original Certification was filed. If the agreement, or agreements, entered into by the eligible space station operator and the relevant challenger(s) does not resolve all outstanding issues in an eligible space station operator's Certification, then the Bureau will proceed to make a determination on any outstanding issues not addressed by the agreement or agreements. To the extent the eligible space station operator files an amended Certification before such determination is made, attesting that it has completed the necessary remedial steps on any outstanding issues, then we will calculate the ARP as of the date of the amended Certification (assuming this amended Certification is found valid). While we decline to adopt certain proposals advanced by Eutelsat relating to our review of agreements, we clarify that parties to an agreement may request confidential treatment under § 0.459 of the Commission's rules.

Although we allow eligible space station operators and stakeholders to enter into agreements to resolve issues raised in challenges, to ensure the integrity of the transition process, we affirm our proposal to bar the use of greenmail to reach agreements designed to avoid incremental reductions. When a challenge against a Certification is withdrawn as the result of an agreement with an eligible space station operator, we will require that the written withdrawal agreement be accompanied by an affidavit from all parties certifying that no parties involved have received or will receive any money or other consideration, or pay any money or other consideration, in excess of legitimate and prudent expenses in exchange for the agreement or withdrawal of the challenge. We otherwise decline to clarify the Commission's greenmail policy as some commenters suggest, finding that the approach we adopt will ensure the integrity of the transition without imposing unnecessary or onerous requirements on the parties to such agreements. We believe it is more appropriate to address specific applications of this policy on a case-by-case basis, and will reject any agreement where we have reason to believe greenmail has changed hands.

Finally, if the eligible space station operator takes remedial action to address any challenges to a filed Certification but does not attempt to negotiate with the challengers or such negotiations fail, WTB will proceed to make a decision based on the information submitted by the eligible space station operator in its Certification (original, amended, or refiled, as applicable).

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2021–22490 Filed 10–14–21; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR Case 2017–G506; Docket No. GSA–GSAR 2021–0016; Sequence No. 1]

RIN 3090–AJ90

General Services Administration Acquisition Regulation (GSAR); Clause and Provision Designation Corrections; Correction

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule; correction.

SUMMARY: On October 6, 2021, GSA published a final rule to amend the General Services Administration Acquisition Regulation (GSAR) to correct clause and provision designation and prescription errors, correct deviations and alternate identification issues, and to make other updates to the GSAR related to identification and incorporation of GSAR provisions and clauses. This document corrects an erroneous amendatory instruction in that rule.

DATES: Effective November 5, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Linn, Procurement Analyst, at 202–445–0390 or *gsarpolicy@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite GSAR Case 2017–G506.

SUPPLEMENTARY INFORMATION: GSA is correcting an amendatory instruction under part 552, section 552.232–72.

In FR Doc. 2021–20541 appearing on pages 55516–55525 in the issue of October 6, 2021, make the following correction:

552.232–72 [Corrected]

■ 1. On page 55524, in the first column, Instruction 82 for 552.232–72 is corrected to read:

''82. Amend section 552.232–72 by removing from the introductory text

''532.904(c)'' and adding ''532.908(a)'' in its place.''

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2021–22498 Filed 10–14–21; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2020–0127; FXES11130500000–212–FF05E00000]

1018–BD73

Endangered and Threatened Wildlife and Plants; Technical Corrections for Northeast Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Direct final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the revised taxonomy of four wildlife species and two plant species under the Endangered Species Act of 1973, as amended (Act). We are revising the List of Endangered and Threatened Wildlife and the List of Endangered and Threatened Plants to reflect the scientifically accepted taxonomy and nomenclature of these species.

DATES: This rule is effective January 13, 2022 without further action, unless significant adverse comment is received by November 15, 2021. If significant adverse comment is received, we will publish a timely withdrawal of the rule for the appropriate species in the **FEDERAL REGISTER**.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R5–ES–2020–0127, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R5–ES–2020–0127, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

See Public Comments under **SUPPLEMENTARY INFORMATION**, below, for more information about submitting comments.

FOR FURTHER INFORMATION CONTACT: Martin Miller, Manager, Division of Endangered Species, U.S. Fish and Wildlife Service, North Atlantic–Appalachian Regional Office, 300 Westgate Center Drive, Hadley, MA 01035; telephone 413–253–8615; email *Martin_Miller@fws.gov.* Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY (telephone typewriter or teletypewriter) assistance 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Purpose of Direct Final Rule and Final Action

The purpose of this direct final rule is to notify the public that we are revising: (1) The List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations (CFR) at § 17.11(h) (50 CFR 17.11(h)) to reflect the scientifically accepted taxonomy and nomenclature of one freshwater turtle species, two beetle species, and one snail species listed under section 4 of the Act (16 U.S.C. 1531 *et seq.*); and (2) the List of Endangered and Threatened Plants in title 50 of the CFR at § 17.12(h) (50 CFR 17.12(h)) to reflect the scientifically accepted taxonomy and nomenclature of two plant species. These changes reflect the most recently accepted scientific names in accordance with 50 CFR 17.11(c) and 50 CFR 17.12(b).

We are publishing this rule without a prior proposal because this is a noncontroversial action that is in the best interest of the public and 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 by the comment due date specified in **DATES**. Significant adverse comments are comments that provide strong justification as to why our rule should not be adopted or why it should be changed.

If we receive significant adverse comments regarding the taxonomic changes for any of these species, we will publish a document in the **Federal Register** withdrawing this rule for the appropriate species before the effective date, and, if appropriate, we will publish a proposed rule to initiate promulgation of those changes to 50 CFR 17.11(h) and/or 50 CFR 17.12(h).

Public Comments

You may submit your comments and materials regarding this direct final rule by one of the methods listed in **ADDRESSES**. Please include sufficient information with your comment that allows us to verify any scientific or commercial information you include.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us. Before including your address, phone number, email address, or other personal 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this direct final rule, will be available for public inspection on the Internet at *http://www.regulations.gov* or by appointment, during normal business hours at the U.S. Fish and Wildlife Service location listed above in **FOR FURTHER INFORMATION CONTACT**. Please note that comments posted to *http://www.regulations.gov* are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission. Information regarding this rule is available in alternative formats upon request (see **FOR FURTHER INFORMATION CONTACT**).

Background

Sections 17.11(c) and 17.12(b) of title 50 of the CFR direct us to use the most recently accepted scientific name of any species that we have determined to be an endangered or threatened species. Using the best available scientific information, this direct final rule documents taxonomic changes of the scientific names to one entry under ''Reptiles,'' one entry under ''Snails,'' and two entries under ''Insects'' on the List of Endangered and Threatened Wildlife (50 CFR 17.11(h)), and two entries under ''Flowering Plants'' on the List of Endangered and Threatened Plants (50 CFR 17.12(h)). The basis for these taxonomic changes is supported by published studies in peer-reviewed journals. Accordingly, we revise the scientific names of these species under section 4 of the Act (16 U.S.C. 1531 *et seq.*).

Taxonomic Classification

Astragalus robbinsii var. jesupii

Jesup's milk-vetch was federally listed as an endangered species under the variant spelling *Astragalus robbinsii* var. *jesupi,* and the first recovery plan recognized the taxon as *Astragalus robbinsii* var. *jesupi.* However, the current nomenclature for the species is *Astragalus robbinsii* var. *jesupii.* The scientific name change of *Astragalus robbinsii* var. *jesupii* (Jesup's milk-vetch) from *Astragalus robbinsii* var. *jesupi* is supported by the standards outlined in the International Code of Botanical Nomenclature and accepted as the scientific name for Jesup's milk-vetch in the Integrated Taxonomic Information System (ITIS), which the Service will rely on to the extent practicable to determine a species' scientific name. The Service finds that the Jesup's milk-vetch should be recognized as *Astragalus robbinsii* var. *jesupii* and is a valid listable entity. This plant will continue to be listed as an endangered species, and no other aspect of the entry for this plant in 50 CFR 17.12(h) will change as a result of this rule.

Boechera serotina

The scientific name change of *Boechera serotina* (shale barren rock cress) from *Arabis serotina* is supported by morphological, molecular, and cytological analyses. While Al-Shehbaz (2003, p. 381) found that 32 of the North American species of *Arabis* (Brassicaceae) should be recognized as members of the genus *Boechera,* based on morphological differences between the two genera, *Arabis serotina* was not transferred to *Boechera* by Al-Shehbaz (2003, entire) at that time, pending further study. Extensive molecular studies on members of the North American *Arabis* indicate the genus is polyphyletic and represents a heterogeneous assemblage of four genera: *Arabidopsis, Boechera, Pennellia,* and *Turritis* (Al-Shehbaz 2003, pp. 381–382). Most of the North American species represent a distinct lineage (*Boechera*) closely related to the halomilobine mustards (Mitchell-Olds et al. 2005, p. 122). A published diploid chromosome count of 2*n* = 14 (Wieboldt 1987, p. 388) and recent molecular investigations have determined that this taxon belongs to a clade of eastern North American species now assigned to *Boechera* (Windham and Al-Shehbaz 2007, p. 249). *Boechera serotina* is the accepted scientific name of shale barren rock cress in the ITIS, which incorporates the naming principles established by the *International Code of Nomenclature for algae, fungi, and plants.* The Service finds that shale barren rock cress should be recognized as *Boechera serotina* and is a valid listable entity. This species will continue to be listed as an endangered species, and no other aspect of the entry for this plant in 50 CFR 17.12(h) will change as a result of this rule.

Ellipsoptera puritana

The scientific name change of *Ellipsoptera puritana* (Puritan tiger beetle) from *Cicindela puritana* is supported by molecular analyses. The Nearctic genus *Ellipsoptera* Dokhtouroff (13 species) was found to be monophyletic and grouped as a sister to the Nearctic genus *Dromochorus* Guerin-Meneville (4 species) and North American genus *Cylindera* (5 species), with the Caribbean/Neotropical genus *Brasiella* Rivalier (45 species) nested within the diverse and polyphyletic genus *Cylindera* (Gough *et al.* 2018, p. 316). The clade containing these four lineages was strongly supported, consists exclusively of New World taxa, and was sister to a predominately Old World clade of *Cylindera* species (Gough *et al.* 2018, p. 316). The *Ellipsoptera puritana* name change and placement is supported in Bousquet's (2012, p. 296) catalogue of Geadephaga (Coleoptera, Adephaga) of America, north of Mexico. *Ellipsoptera puritana* is the accepted scientific name of Puritan tiger beetle in the ITIS, which incorporates the naming principles established by the International Code of Zoological Nomenclature. The Service finds that the Puritan tiger beetle should be recognized as *Ellipsoptera puritana* and is a valid listable entity. This species will continue to be listed as threatened, and no other aspect of the entry for this species in 50 CFR 17.11(h) will change as a result of this rule.

Glyptemys muhlenbergii

The scientific name change of *Glyptemys muhlenbergii* (bog turtle) from *Clemmys muhlenbergii* is supported by molecular analyses. Research of *Glyptemys muhlenbergii* has found sufficient evidence indicating the genus *Clemmys* (McDowell 1964, pp. 239–279) to be paraphyletic with respect to the sister genera *Emys* and *Emydoidea,* and also possibly *Terrapene* (Holman and Fritz 2001, entire; Wiens *et al.* 2010, pp. 445–461; and Fritz *et al.* 2011, pp. 41– 53). Two taxonomic schemes, reflecting the latter genera relationships, are currently in contention; however, the two schemes place both sister taxa *insculpta* and *muhlenbergii* in the genus *Glyptemys* and leave *guttata* in the monotypic genus *Clemmys.* This name change has been recognized by Crother *et al.* (2003, p. 203). *Glyptemys muhlenbergii* is the accepted scientific name of bog turtle in the ITIS, which incorporates the naming principles established by the International Code of Zoological Nomenclature. No subspecies are recognized for *Glyptemys muhlenbergii,* although two geographically distinct ''populations'' (''northern'' and ''southern'') delineate the Federal listing status of ''threatened'' (northern, listed as a distinct population segment) and ''threatened by similarity of appearance'' (southern) under the Act. The Service finds that bog turtle should be recognized as *Glyptemys muhlenbergii* and is a valid listable entity. This species will continue to be listed as threatened, and no other aspect of the entry for this species in 50 CFR 17.11(h) will change as a result of this rule.

Habroscelimorpha dorsalis dorsalis

The scientific name change of *Habroscelimorpha dorsalis dorsalis* (Northeastern beach tiger beetle) from *Cicindela dorsalis dorsalis* is supported by molecular analyses. The New World genus *Habroscelimorpha* Dokhtouroff was found to be paraphyletic with species placed in two different clades (Gough *et al.* 2018, p. 316). The Central American and Nearctic species *Habroscelimorpha curvata* Chevrolat, *Habroscelimorpha dorsalis* Say, and *Habroscelimorpha schwarzi* Horn are part of a moderately supported clade that includes the paraphyletic Central American genus *Microthylax* Rivalier (3 species) and the monophyletic widespread genus *Myriochila* Motschulsky (46 species). This name change has been recognized by Knisley (2017, entire). The name change and placement is further supported in Bousquet's (2012, p. 304) catalogue of Geadephaga (Coleoptera, Adephaga) of America, north of Mexico. *Habroscelimorpha dorsalis* is the accepted scientific name of Eastern beach tiger beetle in the ITIS, which incorporates the naming principles established by the International Code of Zoological Nomenclature. While the Service often relies on ITIS as a reliable database source of taxonomic information, in this instance ITIS is incomplete. ITIS provides only the common name for the species *Habroscelimorpha dorsalis* and does not provide the common name for the listed subspecies. The common name Eastern beach tiger beetle is used to refer to all four subspecies within *Habroscelimorpha.* The common name Northeastern beach tiger beetle is

commonly used and accepted in the scientific literature to refer to the subspecies *Habroscelimorpha dorsalis dorsalis* (Knisley 2017). Therefore, upon review of ITIS's underlying data, we consider the information that displays the common name for *Habroscelimorpha dorsalis dorsalis* as eastern tiger beetles to be incomplete. The Service finds that the Northeastern beach tiger beetle should be recognized as *Habroscelimorpha dorsalis dorsalis* and is a valid listable entity. This subspecies will continue to be listed as threatened, and no other aspect of the entry for this species in 50 CFR 17.11(h) will change as a result of this rule.

Novisuccinea chittenangoensis

The scientific name change of *Novisuccinea chittenangoensis* (Chittenango ovate amber snail) from *Succinea chittenangoensis* is supported by morphological characters and molecular analyses. Sufficient evidence is provided by Hoagland and Davis (1987, pp. 465–526) that the Chittenango ovate amber snail is a valid species and elevates the section *Novisuccinea* to the genus level. While the Service often relies on ITIS as a reliable database source of taxonomic information, in this instance ITIS is incorrect. The scientific literature has been using *Novisuccinea chittenangoensis* (Chittenango ovate amber snail) for many years. ITIS includes an additional common name of Appalachian amber snail, which is not recognized by species experts. Therefore, upon review of ITIS's underlying data, we consider the information that displays Chittenango ovate amber snail as belonging to the genus *Succinea* to be incorrect. The Service finds that the Chittenango ovate amber snail should be recognized as *Novisuccinea chittenangoensis* and is a valid listable entity. This species will continue to be listed as threatened, and no other aspect of the entry for this species in 50 CFR 17.11(h) will change as a result of this rule.

References Cited

A complete list of the referenced materials is available at *http://www.regulations.gov* at Docket No. FWS–R5–ES–2020–0127 or upon request from the U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16. U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11, in paragraph (h), in the List of Endangered and Threatened Wildlife, by revising:
■ a. Under REPTILES, the entries for ''Turtle, bog (=Muhlenberg) [Northen DPS]'' and ''Turtle, bog (=Muhlenberg)'';
■ b. Under SNAILS, the entry for ''Snail, Chittenango ovate amber''; and
■ c. Under INSECTS, the entries for ''Beetle, Northeastern beach tiger'' and ''Beetle, Puritan tiger''.

The revisions read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* *	*	* *	*	*
REPTILES				
* *	*	* *	*	*
Turtle, bog (=Muhlenberg) [Northern DPS].	*Glyptemys muhlenbergii*	Wherever found, except GA, NC, SC, TN, VA.	T	62 FR 59605, 11/4/1997.
Turtle, bog (=Muhlenberg)	*Glyptemys muhlenbergii*	U.S.A. (GA, NC, SC, TN, VA)	T (S/A)	62 FR 59605, 11/4/1997; 50 CFR 17.42(f).[4d]
* *	*	* *	*	*
SNAILS				
* *	*	* *	*	*
Snail, Chittenango ovate amber	*Novisuccinea chittenangoensis*	Wherever found	T	43 FR 28932, 7/3/1978.
* *	*	* *	*	*
INSECTS				
* *	*	* *	*	*
Beetle, Northeastern beach tiger.	*Habroscelimorpha dorsalis dorsalis.*	Wherever found	T	55 FR 32088, 8/7/1990.
* *	*	* *	*	*
Beetle, Puritan tiger	*Ellipsoptera puritana*	Wherever found	T	55 FR 32088, 8/7/1990.
* *	*	* *	*	*

■ 3. Amend § 17.12, in paragraph (h), in the List of Endangered and Threatened Plants, under FLOWERING PLANTS, by:

■ a. Removing the entry for ''*Arabis serotina*'';

■ b. Revising the entry for ''*Astragalus robbinsii* var. *jesupi*''; and

■ c. Adding in alphabetical order an entry for ''*Boechera serotina*''.

The revision and addition read as follows:

§ 17.12 Endangered and threatened plants. (h) * * *

* * * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
* *	*	* *		* *
Astragalus robbinsii var. *jesupii*	Jesup's milk-vetch	Wherever found	E	52 FR 21481, 6/5/1987.
* *	*	* *		* *
Boechera serotina	Shale barren rock cress	Wherever found	E	54 FR 29655, 7/13/1989.
* *	*	* *		* *

§ 17.42 [Amended]

■ 4. Amend § 17.42 in paragraph (f) introductory text by removing the words ''(*Clemmys muhlenbergii*)'' and adding in their place the words ''(*Glyptemys muhlenbergii*)''.

Martha Williams,

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

[FR Doc. 2021–22518 Filed 10–14–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210716–0148; RTID 0648–XB394]

Fisheries of the Northeastern United States; Atlantic Mackerel; Incidental Possession Limit Implemented for the Remainder of 2021

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

ACTION: Temporary rule.

SUMMARY: NMFS is implementing a catch limit of 5,000 lb (2,268 kg) for all Atlantic mackerel permit holders for the remainder of the 2021 fishing year. This action is intended to reduce potential Atlantic mackerel overfishing based on new 2021 assessment findings.

DATES: Effective October 15, 2021, through December 31, 2021.

ADDRESSES: The supporting documents for the action are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N State Street, Dover, DE 19901. These documents are also accessible via the internet at *http://www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Aly Pitts, Fishery Management Specialist, (978) 281–9352.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council manages the Atlantic mackerel fishery under the Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP). Section 302(g)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that the Scientific and Statistical Committee (SSC) for each regional fishery management council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, ensuring maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL). The regulations implementing the MSB FMP require the Council's MSB Monitoring Committee to develop specification recommendations for each species based upon the ABC advice of the Council's SSC. The regulations at 50 CFR 648.22(e) allow the Regional Administrator, in consultation with the Council, to adjust specifications, including possession limits, during the fishing year.

At its July 2021 meeting, the Council's SSC reviewed the 2021 management track assessment results, which concluded that Atlantic mackerel remains overfished and overfishing is occurring. To date, the U.S. commercial fishery has landed over 5,200 mt of Atlantic mackerel during 2021. Combined with an estimated 4,000 mt of Canadian catch and another 2,500–3,500 mt of U.S. recreational catch, total Atlantic mackerel catch in 2021 will likely exceed the updated OFL estimate of 11,622 mt from the June 2021 management track assessment. Based on this information, the SSC recommended that measures be implemented to eliminate or minimize additional catch during the current year to reduce the potential biological impacts of 2021 catch levels. We do not expect catch to exceed the OFL for the remainder of the year under the 5,000 lb (2,268 kg) possession limit. The Council requested that NOAA Fisheries take action to reduce potential mackerel harvest in 2021 at its August 2021 meeting.

Atlantic Mackerel Possession Limit for 2021

This rule implements a possession limit of 5,000 lb (2,268 kg) for the remainder of the 2021 fishing year for all federally permitted Atlantic mackerel vessels. The regulations currently require that when 100 percent of the Atlantic mackerel domestic annual harvest (DAH) is projected to be landed, the Regional Administrator will reduce the possession limit to 5,000 lb (2,268 kg) for both limited access and open access permit holders. This possession limit allows bycatch of Atlantic mackerel while not exceeding the ABC. This action does not make changes to any other current commercial management measures.

On October 7, 2021, we determined that under the National Environmental Policy Act (NEPA) this action is categorically excluded from requirements to prepare either an Environmental Impact Statement or an Environmental Assessment under NEPA.

The changes to the Atlantic mackerel possession limits included in this action were analyzed during the development of Framework 13 (October 30, 2019, 84 FR 58053). A 5,000 lb (2,268 kg) possession limit was included in the range of alternatives. The public had an opportunity to comment on the 5,000 lb (2,268 kg) possession limit during the development of the Framework 13. The

public also had the opportunity to participate in the SSC and Council meetings discussing the current Atlantic mackerel stock status determination and, at the Council meeting, the request for action to reduce mackerel harvest in 2021. These revised possession limits reduce potential mackerel harvest in 2021 in order to minimize fishing impacts on the stock while the Council develops a revised rebuilding plan.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 648, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the delayed effectiveness because it would be contrary to the public interest and impracticable. This action reduces the Atlantic mackerel possession limit based on new assessment information that only recently became available. This adjustment is allowed pursuant to NMFS regulatory in-season authority at 50 CFR 648.22(e). A delay would be contrary to the public interest for the Atlantic mackerel fishery. This rule is being issued at the earliest possible date. The revised management measures would potentially reduce impacts of overfishing on the Atlantic mackerel fishery while a revised rebuilding plan is developed. Action to reduce Atlantic mackerel harvest in 2021 was discussed during the SSC review of the latest Atlantic mackerel stock assessment, as well as at the August 2021 Council meeting where a request was made for NMFS to take emergency action to reduce mackerel harvest while a rebuilding plan is developed. Fishery stakeholders had the opportunity to participate and comment on a potential adjustment to the 2021 measures at these meetings and are anticipating action to reduce mackerel harvest in 2021. This rule should be effective as soon as possible to fully realize the intended benefits to the resource. Where the public has had an opportunity to review the development of the Council motion to reduce Atlantic mackerel catch for the remainder of 2021 based on the best available science (the purpose of this action), a delay in its effectiveness would not provide any benefits that would outweigh the need to implement this adjustment as quickly as possible. Failure to implement this action as quickly as possible could result in additional 2021 catch that could have potential negative biological impacts, as well as the potential to result in lower catch limits in the future than would otherwise be required by the new rebuilding plan.

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

Dated: October 8, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–22458 Filed 10–14–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 197
Friday, October 15, 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 ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0003]

RIN 1904–AD80

Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers, Webinar and Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of a webinar and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') will hold a webinar to discuss and receive comments on the preliminary analysis it has conducted for purposes of evaluating energy conservation standards for refrigerators, refrigerator-freezers, and freezers. The webinar will cover the analytical framework, models, and tools used to evaluate potential standards for these products; the results of preliminary analyses performed for these products; the potential energy conservation standard levels derived from these analyses that could be considered for these products should DOE determine that proposed amendments are necessary; and any other issues relevant to the evaluation of energy conservation standards for refrigerators, refrigerator-freezers, and freezers.

DATES:

Meeting: DOE will hold a webinar on Wednesday, December 1, 2021, from 1:00 p.m. to 5:00 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

Comments: Written comments and information will be accepted on or before, December 29, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–STD–0003 and/or RIN number 1904–AD80, by any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* To *ConsumerRefrigFreezer2017STD0003@ee.doe.gov.* Include docket number EERE–2017–BT–STD–0003 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including the Federal eRulemaking Portal, email, postal mail, or hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing corona virus 2019 (COVID–19) pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, public meeting transcripts, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/docket/EERE-2017-BT-STD-0003.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the webinar, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes the United States Department of Energy (''DOE'') to regulate the energy

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include refrigerators, refrigerator-freezers, and freezers, the subject of this document. (42 U.S.C. 6292(a)(1))

EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(b)(1)–(2)), and directed DOE to conduct three cycles of rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(b)(3)(A)(i), (b)(3)(B), and (b)(4)) DOE has completed these rulemakings.

EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

Under EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE is publishing this Preliminary Analysis to collect data and information to inform its decision consistent with its obligations under EPCA.[3]

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including refrigerators, refrigerators, refrigerator-freezers, and freezers. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (*Id.*)

On February 14, 2020, DOE published an update to its procedures, interpretations, and policies for consideration in new or revised energy conservation standards and test procedure, *i.e.,* ''Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment'' (see 10 CFR part 430, subpart C, appendix A (''Process Rule,'')).[4] 85 FR 8626. In the current Process Rule, DOE applies a significance threshold for energy savings under which DOE employs a two-step approach that considers both an absolute site energy savings threshold and a percentage reduction threshold in the energy use of the covered product (or equipment). See Process Rule, Sec. 6(b).

DOE first evaluates the projected energy savings from a potential maximum technologically feasible (''max-tech'') standard over a 30-year period against a site-based energy savings threshold of 0.3 quad. Process Rule, Sec. 6(b)(2). If the 0.3 quad threshold is not met, DOE then compares the max-tech savings to the total energy usage of the covered product to calculate a percentage reduction in energy usage. Process Rule, Sec. 6(b)(3). If this comparison does not yield a reduction in site energy use of at least 10 percent over a 30-year period, the analysis will end and DOE will propose to determine that no significant energy savings would likely result from setting new or amended standards. Process Rule, Sec. 6(b)(4). If either one of the thresholds is reached, DOE will conduct analyses to ascertain whether a standard can be prescribed that produces the maximum improvement in energy efficiency that is both technologically feasible and economically justified and still constitutes significant energy savings at the level determined to be economically justified. Process Rule, Sec. 6(b)(5). This two-step approach currently serves as the means for enabling DOE to help ensure it avoids setting a standard that ''will not result in significant conservation of energy.'' (42 U.S.C. 6295(o)(3)(B))

EPCA defines ''energy efficiency'' as the ratio of the useful output of services from a consumer product to the *energy use* of such product, measured according to the Federal test procedures. (42 U.S.C. 6291(5), *emphasis added*) EPCA defines ''energy use'' as the quantity of energy directly consumed by a consumer product at point of use, as measured by the Federal test procedures. (42 U.S.C. 6291(4)) Further, EPCA uses a household energy consumption metric as a threshold for setting standards for newly covered products. See 42 U.S.C. 6295(l)(1). See also 42 U.S.C. 6292(b) (authorizing the Secretary to classify a type of consumer product as a covered product provided certain criteria are met). Given this context, DOE relies on site energy as the appropriate metric for evaluating the significance of energy savings.

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class)

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] Written comments on the subjects described in this document are encouraged. To help inform interested parties and to facilitate this process, an agenda, a preliminary technical support document, and briefing materials are all available for review at: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=37&action=viewlive.*

[4] On January 20, 2021, the President issued Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.* Exec. Order No. 13,990, 86 FR 7037 (Jan. 25, 2021) (''E.O. 13990''). E.O. 13990 affirms the Nation's commitment to empower our workers and communities; promote and protect our public health and the environment; and conserve our national treasures and monuments. To that end, the stated policies of E.O. 13990 include: Improving public health and protecting our environment; ensuring access to clean air and water; and reducing greenhouse gas emissions. E.O. 13990 section 1. Section 2 of E.O. 13990 directs agencies, in part, to immediately review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (''agency actions'') promulgated, issued, or adopted between January 20, 2017, and January 20, 2021, that are or may be inconsistent with, or present obstacles to, the policy set forth in the Executive Order. E.O. 13990 section 2. In addition, section 2(iii) of E.O. 13990 specifically directs DOE to, as appropriate and consistent with applicable law, publishing for notice and comment a proposed rule suspending, revising, or rescinding the updated Process Rule. In response to this directive, DOE has undertaken a review of the updated Process Rule at this time. See 86 FR 18901 (April 12, 2021) (proposing revisions to the current Process Rule). See also 86 FR 35668 (July 7, 2021) (proposing further revisions to the Process Rule).

compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy Use Analysis.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis.
2. Lifetime operating cost savings compared to increased cost for the product	• Shipments Analysis. • Markups for Product Price Analysis. • Energy Use Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits. • Regulatory Impact Analysis.

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for refrigerators, refrigerator-freezers, and freezers measure the energy use of these products during extended time periods that include periods when the compressor and other key components are cycled off. All of the energy these products use during the ''off cycles'' is already included in the

measurements. By measuring the energy use during ''off cycles,'' the current test procedures already address EPCA's requirement to include standby mode and off mode energy consumption in the overall energy descriptor. As a result, DOE's current energy conservation standards and any amended energy conservation standards would account for such energy use.

Before proposing a standard, DOE seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of the preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This document announces the availability of the preliminary technical support document (''TSD''), which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

II. Background

A. Current Standards

In a final rule published on September 15, 2011 (''September 2011 Final Rule''), DOE prescribed the current energy conservation standards for refrigerators, refrigerator-freezers, and freezers manufactured on and after September 15, 2014. 76 FR 57516. These standards are set forth in DOE's regulations at 10 CFR part 430, section 32(a) and are repeated in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost	7.99AV + 225.0	0.282av + 225.0
1A. All-refrigerators—manual defrost	6.79AV + 193.6	0.240av + 193.6
2. Refrigerator-freezers—partial automatic defrost	7.99AV + 225.0	0.282av + 225.0
3. Refrigerator-freezers—automatic defrost with top-mounted freezer without an automatic icemaker	8.07AV + 233.7	0.285av + 233.7
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer without an automatic icemaker.	9.15AV + 264.9	0.323av + 264.9
3I. Refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	8.07AV + 317.7	0.285av + 317.7
3I–BI. Built-in refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	9.15AV + 348.9	0.323av + 348.9
3A. All-refrigerators—automatic defrost	7.07AV + 201.6	0.250av + 201.6
3A–BI. Built-in All-refrigerators—automatic defrost	8.02AV + 228.5	0.283av + 228.5
4. Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	8.51AV + 297.8	0.301av + 297.8
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	10.22AV + 357.4	0.361av + 357.4
4I. Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	8.51AV + 381.8	0.301av + 381.8
4I–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	10.22AV + 441.4	0.361av + 441.4
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	8.85AV + 317.0	0.312av + 317.0
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	9.40AV + 336.9	0.332av + 336.9
5I. Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	8.85AV + 401.0	0.312av + 401.0
5I–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	9.40AV + 420.9	0.332av + 420.9
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.25AV + 475.4	0.327av + 475.4
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.83AV + 499.9	0.347av + 499.9
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	8.40AV + 385.4	0.297av + 385.4
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	8.54AV + 432.8	0.302av + 432.8
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	10.25AV + 502.6	0.362av + 502.6
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7
9. Upright freezers with automatic defrost without an automatic icemaker	8.62AV + 228.3	0.305av + 228.3
9I. Upright freezers with automatic defrost with an automatic icemaker	8.62AV + 312.3	0.305av + 312.3
9–BI. Built-In Upright freezers with automatic defrost without an automatic icemaker	9.86AV + 260.9	0.348av + 260.9
9I–BI. Built-in upright freezers with automatic defrost with an automatic icemaker	9.86AV + 344.9	0.348av + 344.9
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost	9.03AV + 252.3	0.319av + 252.3
11A.Compact all-refrigerators—manual defrost	7.84AV + 219.1	0.277av + 219.1
12. Compact refrigerator-freezers—partial automatic defrost	5.91AV + 335.8	0.209av + 335.8
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	11.80AV + 339.2	0.417av + 339.2

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
13I. Compact refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2
13A. Compact all-refrigerators—automatic defrost	9.17AV + 259.3	0.324av + 259.3
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer	6.82AV + 456.9	0.241av + 456.9
14I. Compact refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker.	6.82AV + 540.9	0.241av + 540.9
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer	11.80AV + 339.2	0.417av + 339.2
15I. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2
16. Compact upright freezers with manual defrost	8.65AV + 225.7	0.306av + 225.7
17. Compact upright freezers with automatic defrost	10.17AV + 351.9	0.359av + 351.9
18. Compact chest freezers	9.25AV + 136.8	0.327av + 136.8

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR pat 430.
av = Total adjusted volume, expressed in Liters.

B. Current Process

On November 15, 2019, DOE published a request for information (''RFI'') to collect data and information to help DOE determine whether amended standards for refrigerators, refrigerator-freezers, and freezers would result in a significant amount of additional energy savings and whether those standards would be technologically feasible and economically justified. 84 FR 62470 (''November 2019 RFI'').

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy use; (4) life cycle cost (''LCC'') and payback period (''PBP''); and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at *www.regulations.gov/docket/EERE-2017-BT-STD-0003.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (''NIA''). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR should one be issued.

A. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of refrigerators, refrigerator-freezers, and freezers. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the baseline cost, as well as the incremental cost for the product/equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

See Chapter 5 of the preliminary TSD for additional detail on the engineering analysis.

B. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert manufacturer production cost (''MPC'') estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis and in the manufacturer impact analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[5]

Chapter 6 of the preliminary TSD provides details on DOE's development of markups for refrigerators, refrigerator-freezers, and freezers.

C. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of refrigerators, refrigerator-freezers, and freezers at different efficiencies in representative

[5] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

U.S. single-family homes, multi-family residences, and commercial buildings, and to assess the energy savings potential of increased efficiencies for these products. The energy use analysis estimates the range of energy use of refrigerators, refrigerator-freezers, and freezers in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Chapter 7 of the preliminary TSD addresses the energy use analysis.

D. Life-Cycle Cost and Payback Period Analyses

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

E. National Impact Analysis

The NIA estimates the national energy savings (''NES'') and the net present value (''NPV'') of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels).[6] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of refrigerators, refrigerator-freezers, and freezers sold from 2027 through 2056.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of those products with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each efficiency level. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the base case efficiency projection, and discount rates.

DOE estimates a combined total of 3.34 quads of site energy savings would result at the max-tech efficiency levels for refrigerators, refrigerator-freezers, and freezers. Combined site energy savings at Efficiency Level 1 for all product classes are estimated to be 1.01 quads. Therefore, DOE has determined that the potential available energy savings for refrigerators, refrigerator-freezers, and freezers are more than the 0.3 quads of site energy threshold established by the Process Rule and thus are considered significant under EPCA. (42 U.S.C. 6295(o)(3)(B))

Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites public participation in this process through participation in the webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for refrigerators, refrigerator-freezers, and freezers need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by that rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

A. Participation in the Webinar

The time and date for the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website:*www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this notice, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation

[6] The NIA accounts for impacts in the 50 states and U.S. territories.

should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present summaries of comments received before the webinar, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE invites all interested parties, regardless of whether they participate in the public meeting, to submit in writing by December 29, 2021, comments and information on matters addressed in this notification and on other matters relevant to DOE's consideration of amended energy conservations standards for refrigerators, refrigerator-freezers, and freezers. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov.* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of a webinar and availability of preliminary technical support document.

Signing Authority

This document of the Department of Energy was signed on October 7, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on October 8, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2021–22317 Filed 10–14–21; 8:45 am]

BILLING CODE 6450–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3055

[Docket No. RM2022–1; Order No. 6004]

Service Performance and Customer Satisfaction Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is considering possible improvements to the quality, accuracy, or completeness of data provided by the Postal Service in its annual compliance reports. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 25, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

Pursuant to 39 U.S.C. 3652(e), the Commission is establishing this proceeding to consider possible improvements to the quality, accuracy, or completeness of data provided by the Postal Service in its annual compliance reports.[1]

I. Background

This is the second such proceeding initiated by the Commission.[2] In the first proceeding, the Commission identified four study areas as near-term priorities for further research.[3] Those four study areas were: The reestimation of volume variability of city carrier street time; the recalculation of the cost elasticity of purchased highway transportation capacity; the recalculation of postmaster cost variability; and the reestimation of product shares of window service costs.[4]

Two of the four study areas produced changes to the analytical principles being used by the Postal Service. The first of those changes involved city carrier street time and consisted of an update of the city carrier letter route street time model.[5] The second change involved purchased highway transportation and consisted of an update of the estimated variabilities of purchased highway transportation costs.[6] By the time Docket No. RM2011–3 was closed, two of the study areas (those involving postmaster cost variabilities and window service costs) had produced no changes to existing analytical principles.[7]

II. Developments Since the Conclusion of the Docket No. RM2011–3 Rulemaking

A. City Carrier Street Time

On May 31, 2017, the Commission established Docket No. PI2017–1 to evaluate the Postal Service's progress in its ongoing efforts to update its city carrier cost models and data collection capabilities.[8] The proceedings in this docket focused on the feasibility of a top-down, single-equation model to improve the Postal Service's variability estimates of city carrier cost drivers. On November 2, 2018, the Commission issued an interim order directing the Postal Service to provide an expanded dataset of city carrier delivery data and to report quarterly on the status of developing the expanded dataset.[9] On February 27, 2020, the Postal Service filed its fifth and final report on the status of its efforts to develop an

[1] Sections 3652 (a) through (c) of title 39 of the United States Code describes reports that the Postal Service is required to provide to the Commission to enable the evaluation of Postal Service compliance with the requirements and standards of the Postal Accountability and Enhancement Act (PAEA). Section 3652(e) authorizes the Commission to prescribe the form and content of the Postal Service's reports and to initiate proceedings to improve the quality, accuracy and completeness of the data provided.

[2] *See* Docket No. RM2011–3, Notice and Order of Proposed Rulemaking on Periodic Reporting, November 18, 2010 (Order No. 589). The Notice and Order of Proposed Rulemaking on Periodic Reporting was published in the **Federal Register** on November 24, 2010. *See* 79 FR 71643 (November 24, 2010).

[3] *See* Docket No. RM2011–3, Order Setting Near-Term Priorities and Requesting Related Reports, January 18, 2013 (Order No. 1626).

[4] Order No. 1626 at 3. Within those four study areas, the Commission identified specific issues that were more appropriately considered in the medium-term or long-term. *See, e.g., id.* at 7 (whether the regression model of purchased transportation cost variability would benefit from further refinement).

[5] *See* Docket No. RM2015–7, Order Approving Analytical Principles Used in Periodic Reporting (Proposal Thirteen), October 29, 2015 (Order No. 2792). A second proposed change to city carrier street time analytical principles was rejected. *See* Docket No. RM2015–2, Order Denying Changes in Analytical Principles Used in Periodic Reporting (Proposal Nine), September 22, 2016 (Order No. 3526).

[6] *See* Docket No. RM2014–6, Order on Analytical Principles Used in Periodic Reporting (Proposals Three through Eight), September 10, 2014, at 15, 27 (Order No. 2180).

[7] *See* Docket No. RM2011–3, Order Closing Docket, November 3, 2015, at 5 (Order No. 2798). At the time it closed the docket, the Commission stated its anticipation that studies of cost attribution of postmaster and window service time might be revisited in future dockets after full implementation of the Postal Service's POStPlan. Order No. 2798 at 5. POStPlan was an initiative by the Postal Service ''to match post office retail hours with workload.'' Docket No. N2012–2, Advisory Opinion on Post Office Structure Plan, August 23, 2012. The Postal Service subsequently submitted a proposal to change the analytical principles involving postmaster cost variabilities. *See* Docket No. RM2020–2, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Ten), November 29, 2019. That proposal is discussed *infra.*

[8] *See* Docket No. PI2017–1, Notice and Order Establishing Docket Concerning City Carrier Special Purpose and Letter Route Costs and to Seek Public Comment, May 31, 2017, at 65–66 (Order No. 3926). The Notice and Order Establishing Docket Concerning City Carrier Special Purpose and Letter Route Costs and to Seek Public Comment was published in the **Federal Register** on June 6, 2017. *See* 82 FR 26146 (June 6, 2017).

[9] Docket No. PI2017–1, Interim Order, November 2, 2018 (Order No. 4869).

expanded data set.[10] On March 1, 2021, Docket No. PI2017–1 was closed.[11]

While Docket No. PI2017–1 was pending, the Commission considered several Postal Service proposals to change various accepted analytical principles related to city carrier costing:

Docket No. RM2017–8. On December 1, 2017, the Commission approved a Postal Service proposal to establish a procedure for annually updating the estimated proportion of city carrier letter route time spent delivering parcels.[12]

Docket No. RM2017–9. On February 6, 2018, the Commission approved a modified version of a Postal Service proposal to update the methodology for dividing accrued city carrier costs between the letter route and special purpose route groups in the In-Office Cost System (IOCS).[13]

Docket No. RM2017–13. On December 15, 2017, the Commission approved a Postal Service proposal to change the current City Carrier Cost System methodology for estimating Delivery Point Sequence volume proportions.[14]

Docket No. RM2018–5. On January 8, 2019, the Commission approved the use of workhours from the Postal Service's Time and Attendance Collection System (TACS) to develop Sunday and holiday city carrier costs and the use of the Postal Service's Product Tracking and Reporting scan data as a distribution key for Sunday/holiday city carrier costs and the city carrier sampling mode 2 (morning readings in small zones).[15] However, the Commission denied the proposed city carrier supervisor methodology component of Proposal Two because the completeness of the overall city carrier supervisor data would likely not be improved. Order No. 4972 at 26–29. The Commission also denied the city carrier afternoon readings and morning readings in large zones because it was unable to determine the impact of these changes. *Id.* at 18–23.

Docket No. RM2019–6. On January 14, 2020, the Commission approved, with modifications, a Postal Service proposal to update and improve the methodology for calculating attributable Special Purpose Route (SPR) city carrier costs.[16] This was to be accomplished through ''a new study of SPR costs that uses operational carrier data to reflect the current structure of SPR activities.'' *Id.* at 1–2 (footnote omitted).

Docket No. RM2020–7. On July 9, 2020, the Commission approved a Postal Service proposal for updating city carrier regular letter and flat street delivery time variabilities annually to reflect changes in the relative volumes of letter and flat mail.[17]

Docket No. RM2020–9. On May 29, 2020, United Parcel Service, Inc. (UPS) filed a petition requesting the Commission to initiate a proceeding to change how the Postal Service determines incremental costs and how it accounts for peak-season costs in its periodic reports.[18] UPS alleges that the Postal Service's current costing models for City Carrier Street Time, SPRs, and Highway Transportation do not fully account for the increase in peak-season costs driven by package shipments.[19] On July 13, 2020, the Commission instituted a proceeding to consider UPS's allegations.[20] That proceeding is pending before the Commission.

Docket No. RM2021–7. On September 30, 2021, the Commission approved a Postal Service proposal to replace the system used to distribute delivery costs for SPRs with a revised system, the Special Purpose Carrier Cost System (SPCCS), which replaces manual sampling with Product Tracking and Reporting (PTR) scan data.[21] The Commission found that the proposal would improve the accuracy of data, reduce data collection costs, and allow the Postal Service to develop separate distribution factors for peak and non-peak periods and to separate estimates by carrier subcategory. Order No. 5991 at 15.

B. Purchased Highway Transportation

Since the conclusion of Docket No. RM2011–3, the Commission has considered several proposals for changes to the methodology for calculating purchased highway transportation costs:

Docket No. RM2016–12. On June 22, 2017 the Commission accepted, in part, a Postal Service proposal that uses a newly developed econometric model to calculate the variability of purchased highway transportation capacity with respect to volume.[22] The Commission found that, in general, the Transportation Cost System (TRACS) database provides a reliable source for estimating capacity-to-volume variabilities of purchased highway transportation. Order No. 3973 at 12–15. However, the Commission concluded that the TRACS database is not suitable for the proposed variability analysis for Christmas and emergency routes and therefore instructed the Postal Service to continue applying the current assumption regarding proportionality between capacity and volume pending further research. *Id.* at 16–19.

Docket No. RM2021–1. Subject to a minor modification, the Commission on October 6, 2021, approved the Postal Service's proposed update of econometric estimates of variabilities for specific types of purchased highway transportation as an improvement over estimated variabilities produced by the current methodology.[23] The Commission also urged the Postal Service to econometrically estimate peak-season capacity-to-volume variabilities;[24] to conduct research on distribution keys for peak-season costs;[25] and to address certain mistakes

[10] Docket No. PI2017–1, Fifth Status Report of the United States Postal Service in Response to Order No. 4869, February 27, 2020.

[11] *See* Dockets Subject to Automatic Closure in October 2021, available at *https://www.prc.gov/sites/default/files/DocketsPAC/Autoclosure Placeholder.pdf.*

[12] Docket No. RM2017–8, Order on Analytical Principles Used in Periodic Reporting (Proposal Four), December 1, 2017 (Order No. 4259). In this connection, the Commission directed the Postal Service to provide supporting materials in its Annual Compliance Report to help ensure that the Postal Service reports accurate data concerning city carrier letter route street time evaluations. Order No. 4259 at 21–22.

[13] Docket No. RM2017–9, Order on Analytical Principles Used in Periodic Reporting (Proposal Five), February 6, 2018 (Order No. 4399).

[14] Docket No. RM2017–13, Order on Analytical Principles Used in Periodic Reporting (Proposal Nine), December 15, 2017 (Order No. 4278).

[15] Docket No. RM2018–5, Order Approving in Part Proposal Two, January 8, 2019 (Order No. 4972).

[16] Docket No. RM2019–6, Order on Analytical Principles Used in Periodic Reporting (Proposal One), January 14, 2020 (Order No. 5405).

[17] Docket No. RM2020–7, Order on Analytical Principles Used in Periodic Reporting (Proposal Two), July 9, 2020 (Order No. 5583); Docket No. RM2020–7, Notice of Errata, July 14, 2020.

[18] Docket No. RM2020–9, Petition of United Parcel Service, Inc. for the Initiation of Proceedings to Make Changes to Postal Service Costing Methodologies, May 29, 2020 (Docket No. RM2020–9 Petition). UPS also filed a library reference in support of the Petition. *See* Docket No. RM2020–9, Notice of Filing of Library Reference UPS–LR–RM2020–9/1, May 29, 2020.

[19] Docket No. RM2020–9 Petition at 29–35. To avoid duplication, this docket is not included in the discussion of purchased highway transportation costs below.

[20] *See* Docket No. RM2020–9, Notice and Order Establishing Docket to Obtain Information Regarding Proposed Changes to Cost Methodologies and Scheduling Technical Conference, July 13, 2020 (Order No. 5586). The Notice and Order Establishing Docket to Obtain Information Regarding Proposed Changes to Cost Methodologies and Scheduling Technical Conference was published in the **Federal Register** on July 31, 2020. *See* 85 FR 46044 (July 31, 2020).

[21] *See* Docket No. RM2021–7, Order on Analytical Principles Used in Periodic Reporting (Proposal Four), September 30, 2021 (Order No. 5991).

[22] Docket No. RM2016–12, Order on Analytical Principles Used in Periodic Reporting (Proposal Four), June 22, 2017 (Order No. 3973).

[23] Docket No. RM2021–1, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), October 6, 2021 (Order No. 5999).

[24] Order No. 5999 at 36.

[25] *Id.* at 37–38.

and discrepancies in the Postal Service's initial data analysis. *Id.* at 39–40.

C. Postmaster Cost Variability

Docket No. RM2020–2. In this proceeding, the Commission denied a Postal Service request to implement a new model to calculate Postmaster cost variability.[26] The Commission made suggestions as to how this proposal could be improved and possibly accepted in the future. Order No. 5932 at 47–49.

D. Window Service Costs

Docket No. RM2011–3. In closing this docket, the Commission determined that it was prudent to delay consideration of this study area until the Postal Service's POStPlan had been fully implemented because it might materially impact the volume variability of window costs. *See* Order No. 2798. Although POStPlan has been implemented, the Postal Service has taken no further action to investigate Window Service Time or Window Service Costs.

E. Space-Related Costs

Docket No. RM2020–1. On August 17, 2020, the Commission approved a Postal Service proposal to update inputs into the analysis used for the allocation of facility-related costs to products.[27] Proposal Nine was based on a new Facility Space Usage Study (FSUS) conducted in 2018 and 2019. The prior methodology had relied upon data from a FSUS conducted in 1999 and presented in Docket No. R2005–1. Order No. 5637 at 2.

F. Supervisor Costs

Docket No. RM2019–12. In this proceeding, the Commission approved a Postal Service proposal to use TACS data to determine the share of costs for supervisors at delivery units on Sundays and holidays and then distribute those costs using the same distribution key used for city carriers delivering packages on Sundays and holidays.[28]

G. Mail Processing Time

Docket No. RM2020–13. In this docket, the Postal Service proposes to establish a new methodology to determine the volume variability factors for the mail processing cost pools representing automated letter and flat sorting operations.[29] This proceeding is currently pending before the Commission.

III. Procedures To Be Followed in This Proceeding

In Order No. 589, the Commission adopted the approach described in Docket No. RM2008–4 for assuring that appropriate changes or additions would be made to the methods for collecting and reporting data and for analyzing or modeling data to develop the estimates reported to the Commission under section 3652.[30] Under that approach, a strategic rulemaking would consider longer-term data collection and analysis needs and could focus on updating existing data collection systems or analytical studies or establishing new ones. Order No. 104 at 32–33. Additionally, a strategic rulemaking would be exploratory in nature, with potential prehearing conferences and flexible procedures. *Id.*

In this proceeding, the Commission will once again develop an inventory of data collection and analysis needs, comprehensively evaluate these needs, and devise a plan for meeting these needs, with input from mailers, the interested public, the Postal Service and Commission staff. *Id.* At a time when the Postal Service remains under considerable financial pressure, it continues to be important to have accurate estimates of product costs in order to understand the net revenue consequences of the rates and discounts that the Postal Service selects.

For a publicly-owned entity like the Postal Service, changes to the level and quality of the business information that guides its operations should be based on understanding among the Postal Service, its stakeholders, and the regulator, about the need for, and the value of the changes. The Commission hopes that the postal community will weigh both the costs and benefits of any proposed changes and provide input on what improvements in data collection and analysis warrant attention in the near term and what improvements would be warranted over a longer time horizon. Of those that are considered to be warranted over the near term, comments are requested concerning which research topics should be given priority, and what time frame should be considered feasible for completing the research.

Interested persons may propose areas of research that they think are needed, and may use the list of possible candidates in this Order as a starting point. In doing so, they should consider the magnitude of the candidate's potential impact on estimated volumes, costs or revenues; the time and expense likely to be required to resolve it; and its potential relevance to determining compliance with the standards of the PAEA or supporting the various studies and reports that the PAEA requires the Commission to prepare.

Following the submission of initial comments, the Commission will select an appropriate time to host a public forum. The public forum will function as a technical conference. Subject matter experts from the Postal Service, interested participants, and Commission staff will have an opportunity to interactively discuss matters, such as feasibility and cost, which would bear on the priority that should be assigned to the various research topics that are in need of further study. Proposed modifications to the list of topics and tentative prioritization of them will be addressed at the forum. Participants at the public forum may also discuss a protocol whereby the Postal Service or outside contractor conducting a study growing out of this proceeding would afford an opportunity for outside review and input at interim stages. Additional technical conferences may be scheduled to discuss a particular research item or set of items in greater depth. The Commission intends to permit interested persons to participate in any technical conference held in this proceeding using a virtual meeting platform.

The Commission will balance the urgency and importance of resolving each issue with the practical considerations of time, cost, and other resource limitations. A schedule with target dates for beginning data collection efforts or completing an initial group of analytical studies will be developed. Formal proposals to change or supplement current analytical principles are expected to grow out of the research completed in response to this proceeding. Such proposals will be vetted as they are now in informal rulemakings devoted to specific detailed changes.

IV. Ordering Paragraphs

It is ordered:

[26] Docket No. RM2020–2, Order on Analytical Principles Used in Periodic Reporting (Proposal Ten), July 8, 2021 (Order No. 5932).

[27] Docket No. RM2020–1, Order on Analytical Principles Used in Periodic Reporting (Proposal Nine), August 17, 2020 (Order No. 5637).

[28] Docket No. RM2019–12, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), January 6, 2020 (Order No. 5395).

[29] Docket No. RM2020–13, Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Six), September 23, 2020 (Order No. 5694). The Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Six) was published in the **Federal Register** on October 8, 2020. *See* 85 FR 63473.

[30] Docket No. RM2008–4, Notice of Proposed Rulemaking Prescribing Form and Content of Periodic Reports, August 22, 2008 (Order No. 104). The Notice of Proposed Rulemaking Prescribing Form and Content of Periodic Reports was published in the **Federal Register** on September 15, 2008. *See* 73 FR 53324.

1. Initial comments are due on or before March 25, 2022.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is designated as the Public Representative in this proceeding to represent the interests of the general public.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2021–22476 Filed 10–14–21; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0167; FRL–8989–01–R6]

Air Plan Approval; New Mexico; Clean Air Act Requirements for Emissions Inventory and Emissions Statement for Nonattainment Area for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) submitted by the State of New Mexico to meet the Emissions Inventory (EI), and Emissions Statement (ES) requirements of the Federal Clean Air Act (CAA or the Act) for the Sunland Park ozone nonattainment area for the 2015 8-hour ozone national ambient air quality standards (NAAQS). EPA is proposing to approve this action pursuant to section 110 and part D of the CAA and EPA's regulations.

DATES: Written comments must be received on or before November 15, 2021.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0167, at *https://www.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 to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, 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 *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7222, *salem.nevine@epa.gov.* The EPA Region 6 office is closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there is a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

I. Background

Ozone is a gas that is formed by the reaction of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) in the atmosphere in the presence of sunlight. Therefore, an emission inventory for ozone focuses on the emissions of VOC and NO_X referred to as ozone precursors. These precursors (VOC and NO_X) are emitted by many types of pollution sources, including point sources such as power plants and industrial emissions sources; on-road and off-road mobile sources (motor vehicles and engines); and smaller residential and commercial sources, such as dry cleaners, auto body shops, and household paints, collectively referred to as nonpoint sources (also called area sources).

1. The 2015 Ozone NAAQS

On October 1, 2015 the EPA revised both the primary and secondary NAAQS [1] for ozone from concentration level of 0.075 part per million (ppm) to 0.070 ppm to provide increased protection of public health and the environment (80 FR 65296, October 26, 2015). The 2015 8-hour ozone NAAQS retains the same general form and averaging time as the 0.075 ppm NAAQS set in 2008 NAAQS but is set at a more protective level. Specifically, the 2015 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.07 ppm.[2]

On March 9, 2018 (83 FR 10376), the EPA published the Classifications Rule that establishes how the statutory classifications will apply for the 2015 8-hr ozone NAAQS, including the air quality thresholds for each classification category and attainment deadline associated with each classification.

On June 18, 2018, the EPA classified the Sunland Park area in southern Doña Ana County, New Mexico as marginal nonattainment area for 2015 ozone NAAQS with an attainment deadline of August 3, 2021. (*See* 83 FR 25776).

2. Statutory and Regulatory Emission Inventory Requirements

An emission inventory of ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. The emissions inventory provides emissions data for a variety of air quality planning tasks, including establishing baseline emission levels for calculating emission reduction targets needed to attain the NAAQS, determining emission inputs for ozone air quality modeling analyses, and tracking emissions over time to determine progress toward meeting Reasonable Further Progress (RFP) requirements.

CAA section 182(a)(1) and 40 CFR 51.1315(b) require states to submit a ''base year inventory'' for each ozone nonattainment area within two years of the effective date of designation. This inventory must be ''a comprehensive, accurate, current inventory of actual emissions from sources of VOC and

[1] The primary ozone standards provide protection for children, older adults, and people with asthma or other lung diseases, and other at-risk populations against an array of adverse health effects that include reduced lung function, increased respiratory symptoms and pulmonary inflammation; effects that contribute to emergency department visits or hospital admissions; and mortality. The secondary ozone standards protect against adverse effects to the public welfare, including those related to impacts on sensitive vegetation and forested ecosystems.

[2] For a detailed explanation of the calculation of the 3-year 8-hour average, see 80 FR 65296 and 40 CFR part 50, Appendix U.

NO_X emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)'' (40 CFR 51.1300(p), see also CAA section 172(c)(3). In addition, 40 CFR 51.1310(b) requires that the inventory year be selected consistent with the baseline year for the RFP plan, which is usually the most recent calendar year for which a complete triennial emissions inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements (AAER) (40 CFR part 51, subpart A).

3. Statutory and Regulatory Emissions Statement Requirements

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas to submit revisions to their SIP to require the owner or operator of each major stationary source of NO_X or VOC to provide the state with annual statement documenting the actual emissions of NO_X and VOC from their sources. For nonattainment areas, air agencies must develop, and include in their SIPs, emission reporting programs for certain VOC and NO_X sources in accordance with CAA section 182(a)(3)(B). The required state program defines how air agencies obtain emissions data directly from certain facilities, and these data, along with other information, are then reported to the EPA as part of SIP inventories required under CAA sections 182(a)(1) and 182(a)(3)(A). This state program is generally referred to as an emissions statement regulation, and it outlines how certain facilities must report emissions and facility activity data to an air agency, typically a state agency. Reports submitted to air agencies must be accompanied by ''a certification that the information contained'' in the report is ''accurate to the best knowledge'' of the facility. To properly implement the emissions reporting requirements, emissions statement regulations should be coordinated carefully with the data elements that are required by the EPA (requirements at 40 CFR 51.1115 and 40 CFR 51.1315). An air agency must submit the emissions statement regulation required by CAA section 182(a)(3)(B), or a written statement certifying a previously approved regulation, to the EPA as a SIP revision for approval. CAA section 110, in conjunction with 40 CFR 51.102, 51.103 and Appendix V, establishes the procedure for submitting a SIP revision. Under section 182(a)(3)(B)(ii), air agencies may waive the requirement for emission statements for classes or categories of sources with less than 25 ton per year of actual plant-wide NO_X or VOC emissions in nonattainment areas, provided the class or category is included in the base year and periodic inventories required under CAA sections 182(a)(1) and 182(a)(3)(A), respectively.[3]

II. State's Submittal

On September 10, 2020, New Mexico[4][5] submitted to EPA a SIP revision addressing the 2015 ozone NAAQS emissions inventory and emissions statement requirements for the Sunland Park nonattainment area.

(a) Base Year Emission Inventory

New Mexico Environmental Department (NMED) has developed a 2017 base year emissions inventory for the Sunland Park nonattainment area. The 2017 base year emissions include all point, nonpoint (area), on-road mobile, and non-road mobile source emissions. Table 1 summarizes the 2017 NO_X and VOC emissions for the Sunland Park nonattainment area for a typical ozone season day[6] (reflective of the summer period, when the highest ozone concentrations are expected in the ozone nonattainment areas).

TABLE 1—SUNLAND PARK NONATTAINMENT AREA OZONE SEASON DAY EMISSIONS ESTIMATES SUMMARY

Source type	VOC tons/day	NO_X tons/day
Point	0.08	2.69
Nonpoint (Area)	0.57	0.21
On-road Mobile	0.06	0.10
Non-road Mobile	0.08	0.33
Total	0.78	3.33

(b) Emission Statement

Pursuant to section 182(a)(3)(B), states with ozone nonattainment areas must require annual emissions statements from NO_X and VOC stationary sources within those nonattainment areas. New Mexico's emissions statement regulation resides in New Mexico's SIP at 20.2.73 New Mexico Administrative Code (NMAC), ''Notice of Intent and Emissions Inventory Requirements'', approved by EPA on November 27, 2012 (77 FR 70693). Emission Inventory Requirements, section 20.2.73.300(A) NMAC applies to all stationary sources in an ozone nonattainment area that have a construction permit, filed a notice of intent, or emits more than ten tons per year (tpy) of nitrogen oxides (NO_X) or volatile organic compounds (VOC). Reporting requirements (20.2.73.300(B) NMAC) include annual emissions reports for any major source in ozone nonattainment area with potential to emit more than 100 tpy and any source that has the potential to emit more than 25 tpy of NO_X and VOC within the nonattainment area submitted by April 1 of each year or a date set by permit conditions. Sources that emit between 10–25 tpy must keep annual emissions records and provide them in an approved format upon request from the department. Emissions reports must contain all contact and facility information along with a signed certifying statement from the certifying official authorized to attest to the accuracy and validity of the emissions submitted on behalf of the facility as required by New Mexico's regulations (20.2.73.300(C) NMAC). Additional reporting requirements for sources within nonattainment area are included in (20.2.73.300(D) NMAC) include typical daily process rates for the ozone season as determined by NMED. Waiver exemption of emissions reporting requirements are included (20.2.73.300(E) NMAC).

III. EPA's Evaluation

EPA has reviewed the New Mexico SIP revision for consistency with the CAA and regulatory emissions inventory and emissions statement requirements.

For the emission inventory, EPA has reviewed the techniques used by the state of New Mexico to derive and quality assure the emission estimates. EPA has also evaluated whether New Mexico provided the public with the opportunity to review and comment on the development of the emission estimates and whether New Mexico addressed the public comments. A summary of EPA's analysis is provided below. For a full discussion for our evaluation, please see our Technical Support Document (TSD) located in the docket for this action.

New Mexico documented the general procedures used to estimate the emissions for each of the four major source types. The documentation of the emission estimation procedures was adequate for us to determine that New Mexico followed acceptable procedures to estimate the emissions.

New Mexico developed a quality assurance plan and followed this plan during various phases of the emissions

[3] See Implementation of the 2015 NAAQS for Ozone: Nonattainment Area State Implementation Plan Requirements Plan Final Rule, 83 FR 63002–63023, December 6, 2018.

[4] The New Mexico Environmental Improvement Board (EIB) is given the authority under state law to adopt rules and plans that are included in the New Mexico's SIP.

[5] The New Mexico SIP applies throughout New Mexico, except for Bernalillo County (Albuquerque) and Indian lands.

[6] *See* Ozone season day emission as defined in 40 CFR 51.1300(q).

estimation and documentation process to quality assure the emissions for completeness and accuracy. These quality assurance procedures are summarized in the documentation describing how the emissions totals were developed. We have determined that the quality assurance procedures followed by New Mexico are adequate and acceptable and that New Mexico has developed inventories of VOC and NO_X emissions that are comprehensive and complete.

For the emission statement, New Mexico's EPA approved SIP contains provisions that address the CAA emission statement requirements.

New Mexico notified the public and offered the opportunity for comment and public hearing. A full record of public notices, and written comments received during public comment period as well as states' response to those comments are included in the state's submittal. New Mexico received no request for public hearing. A copy of the New Mexico SIP revision submittal is available online at *www.regulations.gov,* Docket number EPA–R06–OAR–2020–0167.

IV. Proposed Action

We are proposing to approve the New Mexico SIP revision submitted on September 10, 2020 to address the emissions inventory, and emissions statement requirements for the Sunland Park area for the 2015 ozone NAAQS. The emissions inventory we are proposing to approve are listed in Table 1 above. We are proposing to approve the emissions inventory because it contains comprehensive, accurate and current inventory of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1) requirements. We are proposing to approve the New Mexico emission statement because it includes the approved provision addressing CAA emission statement requirement in CAA section 182(a)(3)(B). New Mexico adopted the emission inventories consistent with reasonable public notice and opportunity for a public hearing requirement. As stated above, a TSD which details our evaluation is included in the docket for this action. Our TSD may be accessed online at *www.regulations.gov,* Docket No. EPA–R06–OAR–2020–0167.

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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

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

Dated: October 7, 2021.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2021–22283 Filed 10–14–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 52 and 64

[WC Docket No. 21–341; FCC 21–102; FR ID 52298]

SIM Swapping and Port-Out Fraud

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission adopted a Notice of Proposed Rulemaking (NPRM) that focuses on putting an end to two methods used by bad actors to take control of consumers' cell phone accounts and wreak havoc on people's financial and digital lives without ever gaining physical control of a consumer's phone. In the first type of scam, known as ''subscriber identity module swapping'' or ''SIM swapping,'' a bad actor convinces a victim's wireless carrier to transfer the victim's service from the victim's cell phone to a cell phone in the bad actor's possession. In the second method, known as ''port-out fraud,'' the bad actor, posing as the victim, opens an account with a carrier other than the victim's current carrier. The bad actor then arranges for the victim's phone number to be transferred to (or ''ported out'') to the account with the new carrier controlled by the bad actor. This NPRM takes aim at these scams by proposing to amend the Federal Communications Commission's (Commission) Customer Proprietary Network Information (CPNI) and local number portability (LNP) rules to require carriers to adopt secure methods of authenticating a customer before redirecting a customer's phone number to a new device or carrier. The NPRM also proposes to require providers to immediately notify customers whenever a SIM change or port request is made on customers' accounts, and seeks comment on other ways to protect consumers from SIM swapping and port-out fraud.

DATES: Comments are due on or before November 15, 2021, and reply comments are due on or before

December 14, 2021. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public and other interested parties on or before December 14, 2021.

ADDRESSES: You may send comments, identified by WC Docket No. 21–341 by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, 35 FCC Rcd 2788 (2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Melissa Kirkel, at (202) 418–7958, *Melissa.Kirkel@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele, *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 21–341, adopted and released on September 30, 2021. The full text of the document is available on the Commission's website at *https://www.fcc.gov/document/fcc-proposes-rules-prevent-sim-swapping-and-port-out-fraud.* To request materials in accessible formats for people with disabilities (*e.g.,* braille, large print, electronic files, audio format, etc.), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due December 14, 2021.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) 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 (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

I. Notice of Proposed Rulemaking

1. We believe that our CPNI and number porting rules are ripe for updates that could help prevent SIM swapping and port-out fraud. In this NPRM, we propose to prohibit wireless carriers from effectuating a SIM swap unless the carrier uses a secure method of authenticating its customer. We also propose to amend our CPNI rules to require wireless carriers to develop procedures for responding to failed authentication attempts and to notify customers immediately of any requests for SIM changes. We also seek comment on whether we should impose customer service, training, and transparency requirements specifically focused on preventing SIM swap fraud. We likewise propose to amend our number porting rules to combat port-out fraud while continuing to encourage robust competition through efficient number porting. Finally, we consider whether we should adopt any other changes to our rules to address SIM swap and port-out fraud, including the difficulties encountered by victims of these schemes. We seek comment on our proposals and invite input from stakeholders on how to best tailor the rules to combat this growing, pernicious fraudulent activity.

A. Strengthening the Commission's CPNI Rules To Protect Consumers

2. *Customer Authentication Requirements for SIM Change Requests.* To reduce the incidence of SIM swap fraud, we propose to prohibit carriers from effectuating a SIM swap unless the carrier uses a secure method of authenticating its customer, and to define ''SIM'' for purposes of these rules as a physical or virtual card contained with a device that stores unique information that can be identified to a specific mobile network. As used in our proposed rules, the term ''carrier'' includes ''any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment.'' We seek comment on these proposals. Consistent with the recommendations made last year by the Princeton Research team that studied SIM swapping, we propose that use of a pre-established password; a one-time passcode sent via text message to the account phone number or a pre-registered backup number; a one-time passcode sent via email to the email address associated with the account; or a passcode sent using a voice call to the account phone number or a preregistered back-up telephone number would each constitute a secure method of authenticating a customer prior to a SIM change. We seek comment on this proposal and whether it will serve as an effective deterrent to SIM swapping fraud. As used here, a ''pre-established password'' is a password chosen by the customer for future use to authenticate a customer for access to account information or to make account changes.

3. Are each of these authentication methods secure? Since 2016, the National Institute of Standards and Technology (NIST) has recognized

known risks associated with SMS-based authentication, distinguishing ''SMS-based authentication from other out-of-band authentications methods due to heightened security risks including 'SIM change.' '' In addition, recent media reports call into question the security of using text messages for authentication purposes. For example, a recent investigation found that SMS-based text messages could be easily intercepted and re-routed using a low-cost, online marketing service that helps businesses do SMS marketing and mass messaging. As with SIM swap fraud, once the hacker was able to re-route a target's text messages, the hacker was also able to access other accounts associated with that phone number. Wireless carriers reportedly have mitigated the security vulnerability uncovered in this investigation. Has this vulnerability has been fixed so that it is no longer a threat to customers of any carrier? What rules could we adopt to ensure that authentication using text messages is secure and effective to protect consumers from SIM swap fraud? Or alternatively, should we prohibit carriers from using text messaging, or specifically SMS text messaging, to authenticate customers requesting SIM swaps? What steps could we take to prevent a customer's text messages from being forwarded without authorization? Should we, for example, require companies offering the text forwarding services to call the customer whose texts will be forwarded to confirm consent prior to forwarding? If so, what authority may we rely upon to adopt such a rule? Are such methods effective? What other steps should we take to help secure customers' accounts and text messages?

4. All of the methods of authentication that we propose to include in the requirement to authenticate a wireless customer before allowing for a SIM swap are familiar ones, already used by consumers and companies in various other circumstances. Based on stakeholder experience with these methods of authentication, how burdensome would our proposed authentication requirement be on customers making legitimate SIM change requests? Would they pose particular challenges to customers whose phone associated with their account has been lost, stolen, or destroyed, or customers who are not comfortable with technology, or to customers with disabilities? Should customers be able to opt-in or opt-out of certain methods of authentication?

5. We also invite comment on whether there are other secure methods of authentication that we should allow carriers to use to authenticate their customers in advance of effectuating a SIM change. What practices and safeguards do carriers currently employ to authenticate customers when SIM change requests are made? Have carriers implemented any processes and protections to address SIM swap fraud specifically? If so, have those practices been effective? Do carriers use multi-factor authentication and has it been effective in preventing SIM swap fraud? If so, should we adopt a multi-factor authentication requirement to prevent SIM swap fraud? If we do require multi-factor authentication, is texting sufficiently secure to permit it as an authentication method for use in multi-factor authentication? Are there emerging technologies or authentication methods in development that could potentially be implemented to protect customers from SIM swap fraud? Are there other security measures incorporated into handsets or operating systems that can be used to authenticate or otherwise prevent SIM swap fraud? Could blockchain technologies that store data in a decentralized manner offer additional security when authenticating customers requesting SIM changes? Are there limitations in these technologies, such as security, storage, scalability, and cost that could place a burden on providers and manufacturers of SIMs? What privacy risks are associated with any of these methods or others suggested by commenters? How effective would any of these methods be at deterring SIM swap fraud? As with the methods we have proposed, what challenges do other secure methods of authentication pose to customers and how burdensome would they be on customers making legitimate SIM change requests, particularly those customers who are no longer in possession of their cell phone because it was lost, stolen, or destroyed, or customers who are not comfortable with technology, or customers with disabilities? What are the costs to carriers for any alternative secure authentication methods?

6. If we adopt a specific set of authentication practices that carriers must employ before effectuating a SIM change, how can we account for changes in technology, recognizing that some of these methods may become hackable over time, while additional secure methods of authentication will likely be developed over time? We seek comment on whether instead of requiring specific methods of authentication, we should adopt a flexible standard requiring heightened authentication measures for SIM swap requests. The Commission has previously found that ''techniques for fraud vary and tend to become more sophisticated over time'' and that carriers ''need leeway to engage emerging threats.'' The Commission has allowed carriers to determine which specific measures will best enable them to ensure compliance with the requirement that carriers take reasonable measures to discover and protect against fraudulent activity. We observe that to the extent carriers have already implemented or are considering implementing additional protections against SIM swap fraud, we want to ensure that any rules we adopt do not inhibit carriers from using and developing creative and technical solutions to prevent SIM swap fraud or impose unnecessary costs. Would codifying a limited set of methods for authenticating customers in advance of approving SIM swapping requests reduce carriers' flexibility to design effective measures and, in effect, reduce their ability to take aggressive actions to detect and prevent fraudulent practices as they evolve? Could requiring specific methods of authentication provide a ''roadmap'' to bad actors? What costs would such requirements impose on carriers, particularly smaller carriers?

7. To that end, we seek comment whether we should instead require carriers to comply with the NIST Digital Identity Guidelines, which are updated in response to changes in technology, in lieu of other proposals. The NIST Digital Identity Guidelines are a set of guidelines that provide technical requirements for federal agencies ''implementing digital identity services,'' focusing on authentication. Would requiring carriers to adopt and comply with these guidelines ''future proof'' authentication methods? Would these guidelines effectively protect consumers in the context of SIM swap fraud? Are these guidelines generally applicable in the telecommunications context, and do the guidelines provide sufficient flexibility to carriers? Would requiring carriers to comply with the guidelines pose any difficulties for smaller providers, and would the authentication methods recommended in the guidelines pose any particular challenges to customers? We also seek comment on whether there are other definitive government sources that we could consider adopting as appropriate authentication methods.

8. We also seek comment on what would be an appropriate implementation period for wireless carriers to implement any changes to their customer authentication processes. Because of the serious harms associated with SIM swap fraud, we believe that a

speedy implementation is appropriate. Are there any barriers to a short implementation timeline and, if so, what are they? What could we do to eliminate or reduce potential obstacles? Will smaller wireless carriers need additional time to implement the requirements we propose?

9. Are there other ways we can strengthen the Commission's customer authentication rules to better protect customers from SIM swap fraud? For example, for online access to CPNI, our rules require a carrier to authenticate a customer ''without the use of readily available biographical information[ ] or account information.'' Given evidence of the ease with which bad actors can create recent payment or call detail information, we propose to make clear that carriers cannot rely on such information to authenticate customers for online access to CPNI. We invite comment on that proposal.

10. We also seek comment on whether there are other methods of authentication that carriers should be allowed to implement to prevent SIM fraud that originates in retail locations. Our rules currently allow carriers to disclose CPNI to a customer at a carrier's retail location if the customer presents a valid photo ID. We seek comment on whether a government-issued ID alone is sufficient for in-person authentication. How prevalent is in-person fraud using fake IDs as a source of SIM swap fraud? What role can, and should, retail stores play in authentication, particularly in situations where customers do not have access to technology or are not tech savvy? Should customer authentication requirements be the same for SIM changes initiated by telephone, online, or in store?

11. We also invite comment on whether we should amend our rule on passwords and back-up authentication methods for lost or forgotten passwords. Our rules require a carrier to authenticate the customer without the use of readily available biographical information or account information to establish the password. We permit carriers to create a back-up customer authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information or account information. Should we make changes to this requirement? If so, what changes are needed? Do the existing rules create vulnerabilities that should be addressed? Should these requirements be updated to reflect any changes in technology? How would they enhance the protections already provided to consumer passwords?

12. *Response to Failed Authentication Attempts.* We propose to require wireless carriers to develop procedures for responding to failed authentication attempts, and we seek comment on this proposal. We seek comment on what processes carriers can implement to prevent bad actors from attempting multiple authentication methods while at the same time ensuring that protections do not negatively impact legitimate customer requests. For example, would a requirement that SIM swaps be delayed for 24 hours in the case of multiple failed authentication attempts while notifying the customer via text message and/or email, be effective at protecting customers from fraudulent SIM swaps? If we adopt such a rule, should we specify the number of attempts, and if so, how many attempts should trigger the 24-hour delay? How burdensome would this be for customers, and what costs would this impose on carriers? How long would it take carriers to develop and implement procedures for responding to failed authentication attempts? Would such a requirement have anti-competitive effects?

13. *Customer Notification of SIM Change Requests.* As part of our effort to protect consumers from fraudulent SIM swapping, we propose to require wireless providers to notify customers immediately of any requests for SIM changes. We seek comment on this proposal. Is it unnecessary if we adopt specific heightened authentication requirements prior to providing a SIM swap? Or will it provide a worthwhile second line of protection against fraudulent SIM swaps?

14. Our CPNI rules currently require carriers to notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, and must not reveal the changed information or be sent to the new account information. As the Commission found with respect to these other types of account changes, we believe that notification of SIM change requests could be an important tool for customers to monitor their account's security, and could help protect customers from bad actors ''that might otherwise manage to circumvent [ ]authentication protections'' and enable customers ''to take appropriate action in the event'' of fraudulent activity. Do commenters agree?

15. We also seek comment on how this notification should be provided to customers. We believe that the verification methods provided in our rules for other types of account changes may be insufficient to protect customers from SIM swap fraud because in these situations, the bad actor has taken control of the customer's account and any verification communications sent after the transfer by voicemail or text may be directed to the bad actor rather than to the victim. Moreover, mail to the address of record will likely be too slow to stop the ongoing fraud that may involve financial accounts, social media profiles, and other services. We therefore propose to amend our rules to include notification requirements that would more effectively alert customers to SIM fraud on their accounts and seek comment on what types of notification would be most effective in alerting customers to SIM swap fraud in progress. Would email notification be more effective? Should we retain the option to send such notifications by mail even though this method involves significant delay? Should carriers be required to give customers the option of listing a personal contact (*e.g.,* a spouse or family member) and then inform that contact that the customer is requesting a SIM swap? What other methods of communication could be used to get timely notification to customers, particularly those customers who are no longer in possession of their device because it has been lost or stolen?

16. In addition to immediate customer notification of requests for SIM swaps, we seek comment on requiring up to a 24-hour delay (or other period of time) for SIM swap requests while notifying the customer via text message, email, through the carrier's app, or other push notification and requesting verification of the request. Once a customer verifies the SIM change request either via text, the carrier's app (if the device is in the customer's possession), an email response, or the customer's online account, the carrier would be free to process the SIM change. If we adopt heightened authentication requirements, is a temporary delay in transferring the account to a new SIM necessary to ensure sufficient time for a customer to receive the notification of activity on the account and take action if the customer has not initiated the changes? Would this requirement be effective in preventing SIM swap fraud? How burdensome would such a delay be for customers? Are there safety implications for customers who legitimately need a new SIM? Could such a delay prevent

the customer from completing 911 calls during the waiting period? What costs would this requirement impose on carriers, and how long would it take carriers to develop, test, and implement such a process? Would such a requirement be anti-competitive? Should we consider other approaches to customer notifications of SIM transfers?

17. *Customer Service, Training, and Transparency.* Additionally, we seek comment on whether we should impose customer service, training, and/or transparency requirements specifically focused on preventing SIM swap fraud. For example, should we require carriers to modify customer record systems so that customer service representatives are unable to access CPNI until after the customer has been properly authenticated? Would this approach be effective in preventing customer service representatives from assisting with authentication through the use of leading questions or other more nefarious employee involvement in SIM swap fraud? Would a requirement for record-keeping of the authentication method used for each customer deter employee involvement in SIM swapping fraud? Are there ways to avoid employee malfeasance, such as requiring two employees to sign off on every SIM change? What burdens would be associated with these possible requirements? Anecdotal evidence suggests that, in some cases, customer service representatives are not trained on procedures to deal with customers who have been victims of SIM swap fraud, and as a result, customers who are already victims have difficulty getting help from their carriers. To address this concern, we seek comment on whether we should impose training requirements for customer service representatives to address SIM swap fraud attempts, complaints, and remediation. What costs would these measures impose on carriers? Is there a way to reduce the burdens of these proposals while still achieving the policy aims? Would these proposals reduce SIM swap fraud or otherwise impact the customer experience? How long would it take wireless carriers to implement any new training requirements? Are there alternative approaches that might be more effective or efficient?

18. We also seek comment on whether we should require wireless providers to offer customers the option to disable SIM changes requested by telephone and/or online access (*i.e.,* account freezes or locks). We believe that offering these protections would impose minimal burdens on carriers while offering significant protection to customers. Do commenters agree? Whether or not we require wireless providers to offer such services, we also seek comment on whether we should require carriers to provide a transparent, easy-to-understand, yearly notice to customers of the availability of any account protection mechanisms the carrier offers (*e.g.,* SIM transfer freeze, port request freezes, PINs, etc.). What costs would such notification requirements impose on carriers? We believe that any customer notifications should be brief, use easy-to-understand language, and be delivered in a manner that is least burdensome to customers. We seek comment on what form such notifications could take and how they could be delivered to customers to provide meaningful notice of such services while imposing minimal burden on carriers. Do we need to prescribe a method or methods for customers to unfreeze or unlock their accounts? What methods would be sufficiently secure? Would an unfreeze or unlock be immediate or should there be a waiting period before an unlocked account can be transferred?

19. *Accounts with Multiple Lines.* We seek comment on how these proposed CPNI rule changes impact wireless accounts with multiple lines, such as shared or family accounts. If we require the customer to provide a one-time passcode for the carrier to execute a SIM change, should each line on the shared or family account have its own passcode? If the account owner elects to freeze the account to protect against unauthorized changes, how can we ensure that another member of the shared or family account remains able to port-out his or her number? Should the freeze option apply only to individual lines and not to entire accounts? Do our proposed rules impact these types of accounts with multiple lines in any other ways?

20. *Remediation of SIM Swap Fraud.* We seek comment on how we can enable timely resolution of SIM swap fraud to minimize financial and other damage to customers who are victims of SIM swap fraud. How can we encourage and/or ensure that carriers quickly resolve complaints in cases of SIM swap fraud? Should we require carriers to respond to customers and offer redress within a certain time frame? What would be the costs to carriers, and what are the costs to customers if we do not do so? We seek comment on the methods wireless carriers have established to help victims of SIM swap fraud halt an unauthorized SIM swap request or to recover their phone numbers from bad actors.

21. *Carriers' Duty to Protect CPNI.* We also seek comment on codifying the Commission's expectation that carriers must take affirmative measures to discover and protect against fraudulent activity beyond the measures specifically dictated by our rules and that additional measures (*e.g.,* self-monitoring) are required to comply with section 222's mandate to protect the confidentiality of customer information. In the *2007 CPNI Order,* the Commission codified the requirement that carriers take reasonable measures to discover and protect against unauthorized access to CPNI, and specified that adoption of the rules in that *Order* does not relieve carriers of their fundamental statutory duty to remain vigilant in their protection of CPNI, nor does it insulate them from enforcement action for unauthorized disclosure of CPNI. The Commission allowed carriers flexibility in how they would satisfy their statutory obligations but expressed an expectation that carriers would take affirmative measures to discover and protect against fraudulent activities beyond what is expressly required by the Commission's rules. We seek comment on whether codifying a requirement to take affirmative measures to discover and protect against fraudulent activities would lead to more effective measures to detect and prevent SIM swap fraud. Has the expectation expressed in 2007 been effective? Would the additional threat of enforcement of a codified rule create additional incentives for carriers to take more aggressive action to detect and prevent fraudulent access to CPNI? We seek comment on whether there are additional requirements needed to ensure that carriers comply with their legal obligations under section 222 to detect and prevent SIM swap fraud.

22. *Tracking the Effectiveness of Authentication Measures.* We seek comment on what data carriers collect about SIM swap fraud, and whether we should require that carriers track data regarding SIM swap complaints to measure the effectiveness of their customer authentication and account protection measures. What would be the burdens of requiring wireless carriers to internally track customer SIM swap complaints? Do wireless carriers already report this information to the U.S. Secret Service and Federal Bureau of Investigation (FBI) pursuant to the Commission's rules? We also seek comment on whether we should modify our breach reporting rules to require wireless carriers to report SIM swap and port-out fraud to the Commission, and what the costs would be to carriers of

doing so, including the timeframe for implementing such a requirement. Should we require carriers to inform the Commission of the authentication measures that they have in place and when those measures change? Would requiring carriers to update the Commission about changes to authentication measures, along with the frequency of customer SIM swap complaints, be sufficient to enable the Commission to evaluate the efficacy of a carrier's authentication measures, or should the Commission require carriers to provide additional information? We also seek comment on how we should ensure carrier compliance with any proposed obligations that we adopt. For example, should we specifically direct the Commission's Enforcement Bureau, or another Bureau or Office, to conduct compliance audits? Are there other audits or models that we should use as guidelines to ensure compliance? We seek comment on the best method to enforce our proposals.

23. *Applicability of Customer Authentication Measures.* We seek comment on whether any new or revised customer authentication measures we adopt should apply only to wireless carriers and only with respect to SIM swap requests, or whether such expanded authentication requirements would offer benefits for all purposes and with respect to all providers covered by our CPNI rules. Is there anything unique about VoLTE service or the upcoming Voice over New Radio (VoNR) that we need to consider? Further, as the nation's networks migrate from 2G and 3G to 4G and 5G, are there particular technical features that should be taken into consideration regarding authentication requirements? Is the type of phone number takeover that occurs through SIM swap fraud only relevant to mobile phone numbers (due to SIM swaps and text message-based text authentication)? Are there also concerns with respect to account takeovers of interconnected Voice over Internet Protocol (VoIP) services, one-way VoIP services, and landline telephone services? Even if the same concerns are not present (or as strongly present), should we apply any stronger authentication requirements to all providers to protect customers' privacy and to provide uniform rules across all providers? If so, under what legal authority could we extend the proposed authentication requirements to services other than wireless? Is there value to uniformity with other categories of providers? Would costs imposed on these carriers outweigh the limited benefit of these requirements related to non-wireless carriers? Are there any other rules that would need to be aligned for consistency if we make changes to the CPNI rules to address SIM swap fraud? In addition, if limited to wireless providers only, we believe that any new rules we adopt should apply to all providers of wireless services, including resellers. Do commenters agree?

24. We also seek comment on whether any new rules should apply only to certain wireless services, such as pre-paid services. Is SIM swap fraud limited to, or more prevalent with, pre-paid or post-paid wireless accounts? Do wireless resellers (many of which offer pre-paid services) encounter this type of fraud more or less often than facilities-based carriers? We invite comment on whether some or all changes discussed here should apply to all mobile accounts or whether certain changes should be limited to pre-paid or post-paid accounts only. We note that pre-paid plans generally do not require credit checks and therefore subscribers to prepaid plans may be more low-income and economically vulnerable individuals. Would such requirements impose disproportionate burdens on these customers?

25. We also seek comment on the scope of any changes that we may make to the CPNI rules to address SIM swap fraud. Specifically, should any new rules be narrowly tailored to deal only with SIM swap fraud, or should they be broader to ensure that they cover the evolving state of fraud on wireless customers? Outside of the account takeover context, are there benefits to providing expanded authentication requirements before providing access to CPNI to someone claiming to be a carrier's customer? We seek comment on whether any heightened authentication measures required (or prohibited) should apply for access to all CPNI, or only in cases where SIM change requests are being made.

26. In addition, we seek comment on the impact that our proposed rules could have on smaller carriers. Would the proposed requirements impose additional burdens on smaller carriers? Would they face different costs than larger carriers in implementing the new requirements, if adopted? Would smaller carriers need more time to comply with new authentication rules? Do they face other obstacles that we have not considered here?

27. We believe that we have authority to adopt the proposed rules discussed in this section pursuant to our authority under sections 4, 201, 222, 303, and 332 of the Act, and we seek comment on this conclusion. Do we have additional sources of authority on which we may rely here? To the extent that we have not already done so, we also solicit input on the relative costs and benefits of our proposals to amend the CPNI rules to address SIM swap fraud. How many legitimate SIM swap requests do carriers receive yearly, and what are customers' most common reasons for requesting a legitimate SIM swap? Is there any evidence concerning the degree to which authentication measures limit legitimate SIM swaps, or the degree to which they successfully prevent fraud? We ask commenters for input on how any of these proposals could positively or negatively affect the customer experience and whether they foresee any unintended consequences from the changes we propose here.

B. Strengthening the Commission's Number Porting Rules To Protect Consumers

28. We next seek comment on proposals to strengthen our number porting rules to protect customers from unauthorized ports and port-out fraud. One reason that number porting can be used to subvert two-factor authentication may be the relative ease with which carriers fulfill port order requests from other carriers. We note that though the Act makes it unlawful for any telecommunications carrier to ''submit or execute a change in a subscriber's selection of a provider of telephone exchange service . . . except in accordance with such verification procedures as the Commission shall prescribe,'' the Commission's slamming rules implementing this provision do not currently apply to wireless carriers. As a result, wireless subscribers are not afforded the same protections as wireline customers when their service is switched to another carrier without their authorization. The Commission has, in the past, been concerned that adding ''additional steps for the customer would also add a layer of frustration and complexity to the number porting process, with anticompetitive effects.'' While the Commission remains committed to ''facilitat[ing] greater competition among telephony providers by allowing customers to respond to price and service changes . . . ,'' we seek comment below on what additional measures we can adopt to protect customers from port-out fraud.

29. *Notification of Wireless Port Requests and Customer Authentication Processes.* We propose to require wireless carriers to provide notification to customers through text message or other push notification to the customer's device whenever a port-out request is

made to ensure that customers may take action in the event of an unauthorized port request, and seek comment on our proposal. For example, Verizon sends its customers a text message letting the customer know that a port-out request has been initiated. When the request is completed, Verizon will send the customer an email stating that the port to the new service was successful. AT&T may also ''send customers a text message to help protect them from illegal porting. This notification will not prevent or delay the customer's request. It just adds a simple step to better protect against fraud.'' We believe that requiring customer notice of port requests could be a minimally intrusive protective measure that could be automated to minimize delays while providing significant protections for customers. Do commenters agree? Do other carriers currently notify their customers of port-out requests? What would be the costs for carriers to implement such a requirement, particularly for smaller carriers? How much time would carriers need to implement such a requirement? Would requiring notification of port requests to customers harm competition? Is there a particular method of notification that is most effective? For this and other potential rules that may require text messages and/or push notifications, should we define the scope of permissible text messages or other push notifications and, if so, what definition or definitions should we use?

30. We also seek comment on whether a port request notification requirement is sufficient to protect customers from port-out fraud, or whether we should also require customer verification or acknowledgement of the text message or push notification through a simple Yes/No response mechanism. Would a customer port verification requirement unreasonably hinder the porting process, and could it be used anticompetitively by carriers? Should we require that customers respond within a certain amount of time before the carrier can execute the port? We recognize that some customers may not frequently check their text messages or push notifications, which could lead to a delay if we require the customer to verify the port. Should we require carriers to send follow-up messages to the customer via email or a phone call? What other processes have wireless carriers adopted to protect customers from port-out fraud, and have they been effective in reducing port-out fraud?

31. As discussed above, the National Institute of Standards and Technology and recent media reports call into question the security of using text messages for authentication purposes. Is notification and/or verification of a port request via text message a secure means of authenticating the validity of a customer's wireless port request? Should we instead require an automated notification call and verification response through a voice call or other method, such as email or carrier app? What methods would ensure that customers who have voice-and-text-only service, or whose devices are incapable of accessing a carrier's app or website, are not hindered in their porting choices? Are there any barriers for smaller carriers implementing any of these changes to protect customers' accounts from port-out fraud?

32. We seek comment whether we should require customers' existing wireless carriers to authenticate a customer's wireless port request through means other than the fields used to validate simple port requests. Are the benefits of potentially protecting customers from port-out fraud outweighed by the potential harms to competition from delaying or impeding customers' valid wireless number port requests? We seek comment on the processes that wireless carriers, including MVNO providers, resellers, and smaller carriers, currently use to authenticate customer port-out requests, and whether those methods are effective in preventing port-out fraud. According to CTIA, ''[w]ireless providers are constantly improving internal processes to stay ahead of . . . bad actors, while protecting the rights of legitimate customers to transfer their phone number to a new device or wireless provider,'' including ''[s]ending one-time passcodes via text message or email to the account phone number or the email associated with the account when changes are requested . . . .'' Verizon will not allow its customers to transfer their number to a different carrier unless that customer first requests a Number Transfer Pin. When a Verizon customer requests a port from its new service provider, the customer must present the Verizon account number and Number Transfer Pin in order to authenticate the request. AT&T customers can create a unique passcode that in most cases the customer is required to provide ''before any significant changes can be made including porting through another carrier,'' and starting September 30, 2021, will require customers to request a Number Transfer PIN to transfer their number to another service provider, which will replace the account passcode customers currently use. T-Mobile assigns each of its customer accounts a 6–15 digit PIN that must be provided whenever an individual requests to port-out the phone number associated with that account. Have such port-out PINs been effective at protecting customers from port-out fraud? Have carriers noticed any effect from adopting port-out PINs or other additional security measures on their customers' likelihood of switching carriers? Is there any evidence indicating how security measures affect porting frequency? Should we require wireless carriers to authenticate customers for wireless port requests under the same standard as we require carriers to authenticate customers for SIM change requests, recognizing that in the porting context, the Act sets forth competing goals of protecting customer information and promoting competition through local number porting? What would be the benefits and costs of doing so?

33. We seek comment on any other technical or innovative solutions for customer authentication for port requests that carriers could implement to reduce port-out fraud. For example, are there technologies developed out of the Mobile Authentication task force, a collaboration among the three major U.S. wireless carriers, that could be easily implemented into the port authentication process? ZenKey, which was developed under the auspices of the Mobile Authentication task force, ''collects and shares device and account data with your wireless carrier . . . [to] easily and more securely authenticate, sign up, and sign in,'' and ''uses multi-factor authentication, including unique network signals, to not only verify a user's device but also allow verification that the user is who they say they are.'' Could carriers use similar technology to authenticate wireless customer port requests? What would be the costs of doing so and what are the challenges to implementation, including customer privacy and consent implications? What other technologies exist that carriers could use to quickly and effectively authenticate wireless port requests to reduce port-out fraud? As the nation's networks migrate from 2G and 3G to 4G and 5G, are there particular technical features that should be taken into consideration for protecting customers from port-out fraud?

34. We seek comment on whether we should require all carriers to implement any of the additional authentication processes for wireless port requests some providers have already developed and implemented. Is there value in uniformity? Would it reduce consumer confusion if we mandate the same authentication requirements on all wireless port-out requests regardless of

the providers involved? Would that potential reduction in consumer confusion outweigh the benefits of enabling carriers to create innovative procedures to protect against port-out fraud attempts as they evolve? Would requiring specific additional customer authentication procedures, as opposed to simply making it clear that carriers are responsible for preventing port-out fraud, provide a roadmap to bad actors? Should we instead require carriers to develop heightened customer authentication procedures like those already initiated by the three nationwide wireless carriers, but provide flexibility to the individual carriers to create and employ what works best for their service? Should we require different authentication procedures for pre-paid wireless account port-out requests than we do for post-paid wireless account port-out requests? We also seek comment on what implementation period the wireless industry would need to implement any additional validation requirements and processes we adopt.

35. We seek comment on how additional port authentication requirements would affect the timing of simple wireless-to-wireless ports. Would allowing additional authentication procedures cause unreasonable delay to the wireless porting process or cause harm to competition? In adopting any additional customer authentication requirements, we want to ensure that we leave carriers in a position to innovate and address new problems as they arise. Relatedly, we seek comment on whether it is necessary to codify a simple wireless-to-wireless porting interval to ensure that any new port authentication requirements do not lead to delay in the current porting process. The wireless industry has voluntarily established an industry standard of two and one-half hours for simple wireless-to-wireless ports. Should we codify this interval in our rules?

36. *Port-Freeze Offerings.* We propose to require all wireless providers, including resellers, to offer customers the option to place a ''port-freeze'' on their accounts at no cost to the customer to help deter port-out fraud. We observe that our rules currently permit local exchange carriers (LECs) to offer their customers the ability to ''prevent[ ] a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent.'' Should we require wireless providers to offer a similar option, and would making this option available to wireless customers deter wireless port-out fraud? Verizon offers customers the option to lock their number, blocking all port-out requests unless the account owner turns off the Number Lock feature through the Verizon mobile app, on Verizon's website, or by calling customer service. Do other wireless carriers currently offer a similar feature? Has this feature, and others like it, been successful at deterring port-out fraud? What costs would offering this feature impose on carriers? How can we make sure that customers are easily notified of this feature? Would a one-time notice for existing customers, and notice at the time service is started, be effective at notifying customers? How often should carriers provide this notice to customers? What method would be least burdensome on carriers while also notifying all customers, including those that do not access their accounts through online services or carrier apps, of the availability of this feature? Local exchange carriers who offer their customers the ''preferred carrier freeze'' option must follow specific requirements regarding the solicitation and imposition of this option. Should we extend similar requirements to wireless carriers? If we impose these requirements, would the benefits gained by deterring port-out fraud outweigh the costs of this measure? What happens when a customer locks his or her account but is unable to recall the information necessary to unlock their account? Should there be a back-up authentication method available? Are there other methods wireless carriers use to prevent unauthorized port requests that we should consider requiring?

37. *Wireless Port Validation Fields.* We also propose to codify the types of information carriers must use to validate simple wireless-to-wireless port requests. Pursuant to the Commission's *2007 LNP Four Fields Declaratory Ruling,* the wireless industry agreed to use three fields of customer-provided information—telephone number, account number, and ZIP code—plus a passcode field (if customer-initiated) to validate requests for simple wireless-to-wireless ports. We propose to codify this requirement in our rules for simple wireless-to-wireless ports, just as we have codified field requirements for simple wireline and intermodal ports. We preliminarily believe that standardizing the fields necessary to complete a simple wireless-to-wireless port will allow for quicker and more efficient porting, and we seek comment on this view. We propose adopting the existing fields because we are cognizant that imposing new or different customer-required information fields could complicate the porting process, from both the carrier and customer perspectives, and we seek comment on this view. We seek comment whether codifying the existing fields used for validating simple wireless ports, in combination with immediate customer notification of port-requests and the offering and advertisement of port-freeze options as we propose, would help to protect customers from port-out fraud. Do such measures appropriately balance the competitive benefits of rapid porting with protecting customers' accounts from fraud?

38. Are there additional fields of customer-provided information we should require for validation of wireless-to-wireless ports to minimize port-out fraud, while ensuring the continued rapid execution of valid port-out requests? If we require additional fields of customer-provided information for only wireless-to-wireless simple ports, will that cause unnecessary complications for the telecommunications industry as a whole? Will it impose additional costs on wireless carriers that would reduce competition in the telecommunications marketplace? We seek comment on whether requiring carriers to implement changes to the wireless port validation requirements would significantly impair the customer's ability to perform a legitimate port-out request. Would requiring carriers to implement additional customer-provided fields for wireless port requests stifle the ability of customers to switch carriers while retaining their phone number or keep customers locked into contracts with their current service providers? Would customers still be able to respond to price and service changes in a quick and efficient manner? Finally, we propose to make clear that any customer validation requirements apply to both facilities-based wireless carriers and resellers of wireless service and we seek comment on that proposal.

39. We seek comment on whether we should require carriers to implement a customer-initiated passcode field for all wireless number port requests, or whether it should remain optional. While AT&T, Verizon, and T-Mobile offer this option, it is unclear if all customers are required to participate. What would be the burden on customers and carriers, particularly smaller carriers, were we to mandate passcode fields for wireless number port requests? Could it harm competition and cause customer frustration if a customer has either not set up a passcode or does not know how to set up a passcode? Should we require carriers to make a customer-

initiated passcode optional on an opt-out rather than opt-in basis? What steps could carriers take to make it least burdensome on customers to establish an account passcode for wireless number porting purposes? We also seek comment on how we can ensure that a customer can make a legitimate port request if he forgets his passcode.

40. *Remediating Port-Out Fraud.* We seek comment on how we can ensure timely resolution of unauthorized port-out requests to minimize financial and other damage to customers who are victims of such fraud. What information do wireless carriers currently collect about port-out fraud? Are wireless carriers already tracking instances of customer complaints regarding this issue? Should we require that carriers use this information to measure the effectiveness of their customer authentication and account protection measures? How can we encourage and/or ensure that carriers coordinate and work together to quickly resolve complaints in cases of port-out fraud? Should we require carriers to respond to customers who allege they are victims of port-out fraud and to offer redress to such customers within a certain time frame? What would be the costs to carriers, and what are the costs to customers if we do not do so? We seek comment on the methods wireless carriers have established to help victims of port-out fraud stop an unauthorized port-out request or to recover their phone numbers from bad actors.

41. *Accounts With Multiple Lines.* We seek comment on how the proposed changes to our LNP rules impact wireless accounts with multiple lines, such as shared or family accounts. If we require the customer to provide a one-time passcode for the carrier to execute the port, should each line on the shared or family account have its own passcode? If the account owner elects to freeze the account to protect against unauthorized changes, how can we ensure that another member of the shared or family account remains able to port-out their number? Should the port-freeze option apply only to individual lines and not to entire accounts? Do our proposed rules impact these types of accounts with multiple lines in any other ways?

42. *Role of Administrator.* We also seek comment on whether the Local Number Portability Administrator (LNPA) can play a role in thwarting port-out fraud by serving as an authorized neutral third-party to verify customer identification prior to authorizing a port-out request. The LNPA operates the Number Portability Administration Center (NPAC), which ''is the system that supports the implementation of LNP and is used to facilitate number porting in the United States. The LNPA, through the NPAC, currently works with a customer's new service provider to create a number port and sends a notification to the old service provider, once the existing service provider validates and confirms the subscriber's information. What information regarding port requests does the NPAC retain? Is there additional information regarding port requests the NPAC should retain to help prevent port-out fraud? What records could be helpful if provided to customers who have been victims of unauthorized port-out fraud? Through what means and under what conditions, if any, should wireless providers permit their customers to access NPAC data regarding port requests that pertain to the customer's telephone number? Are there additional obligations that we should direct or encourage North American Portability Management, LLC, which oversees the LNPA contract, to impose on the LNPA to safeguard against port-out fraud?

43. As discussed above, the Number Portability Industry Forum has created ''Best Practices'' for porting between and within telephony carriers. Best Practice 73 (Unauthorized Port Flow) specifically addresses carrier processes for responding to unauthorized ports, including fraudulent ports, which are ports ''which occurred as the result of an intentional act of fraud, theft, and/or misrepresentation.'' We seek comment on the extent to which wireless providers have adopted Best Practice 73. If wireless carriers have adopted Best Practice 73, is it effective in addressing port-out fraud? Are there changes we can make to the process flow to better protect customers? If wireless carriers have not implemented Best Practice 73, we seek comment on other methods they use to investigate potentially fraudulent ports and how they restore service to the customer. Should we require mobile carriers to adopt Best Practice 73 to help speed resolution of fraudulent port complaints? We also seek comment on what role the North American Numbering Council (NANC) can play in establishing updated best practices to protect customers from port-out fraud and in reaching industry consensus.

44. *Partial Porting Fraud.* We seek comment on whether the proposals on which we seek comment above would also be effective against partial porting fraud, where the bad actor changes the consumer's carrier for delivery of SMS messages without changing their primary carrier. Would our proposed customer notification and authentication rule prevent routing of SMS messages through an alternate provider without customer notification? Would a port freeze prevent changing the delivery provider and destination of SMS messages? If not, what changes to the proposed rules would be required to ensure they also apply to partial porting fraud? What additional measures would be necessary to prevent partial porting fraud in addition to the fraud that may occur when a wireless provider completely ports a consumer's mobile service?

45. *Impact on Smaller Carriers.* We seek comment on the impact the LNP rule changes that we discuss above could have on smaller carriers. Would these new requirements impose undue burdens on smaller carriers? Would smaller carriers face different costs from larger carriers in implementing the new requirements, if adopted? Would smaller carriers need more time to comply with revised number porting rules? Do they face other obstacles that we have not considered here?

46. *Legal Authority.* Finally, we seek comment on our legal authority to adopt the possible rules discussed in this section. We propose to rely on authority derived from sections 4, 201, 251(b)(2), 251(e), 303, and 332 of the Act to implement the proposed changes to our number porting rules to address port-out fraud, and seek comment on our proposal. Are there additional sources of authority on which the Commission can rely to implement these proposals? Should we extend any of the LNP rules on which we seek comment to any entities other than wireless carriers, such as landline carriers or VoIP providers? If so, we propose concluding that we have authority to do so pursuant to section 251(e), and we seek comment on this view. We also seek comment on whether we should update the references to ''CMRS'' in the Commission's number porting rules to reflect evolving technology. Finally, we solicit input on the relative costs and benefits of our proposals to amend the LNP rules to address port-out fraud.

C. Additional Consumer Protection Measures

47. Finally, we seek comment on any additional rules that would help protect customers from SIM swap or port-out fraud or assist them with resolving problems resulting from such incidents. We are aware that customers sometimes need documentation of the fraud incident to provide to law enforcement, financial institutions, or others to resolve financial fraud or other harms of the incident. A SIM swap or port-out

fraud victim may have difficulty obtaining such documentation from the carrier because the carrier may not have processes in place to produce such documentation. To provide support for customers who have become victims, we seek comment on requiring wireless carriers to provide to customers (upon request) documentation of SIM swap or port-out fraud on accounts that the customer may then provide to law enforcement, financial institutions, or others. We seek comment on what information should be included in the documentation provided by carriers. We also seek comment on the potential benefits and projected costs of this proposal, including on smaller providers. Further, we invite input on how the proposed rule would affect the customer experience, either positively or negatively.

48. Next, we seek comment on other measures we can adopt to ensure that customers have easy access to information they need to report SIM swap, port-out, or other fraud. As discussed above, we believe that customer service representatives should be trained on how to assist customers who have been victims of SIM swap or port-out fraud, and carriers should have procedures in place for a response. Identity theft, including SIM swap fraud, can cause intense anxiety for victims and must be addressed in a timely manner to prevent financial losses and exposure of personal information. Thus, in addition to providing documentation, we believe that it should be easy for a customer to get access to appropriate carrier resources that can help mitigate the significant harms caused by SIM swap or port-out fraud. As such, we seek comment on whether we should adopt rules addressing how wireless carriers deal with customers once they have become victims of SIM swapping and port-out fraud. What procedures do carriers have in place to assist customers in these circumstances and are these procedures effective? What additional steps can carriers take to recover the account and stop the ongoing fraudulent activity? How can carriers ensure that customers have easy access to the information they need to report SIM swap fraud? Should we require wireless carriers to establish a dedicated point or method of contact that is easily accessible by customers and is made available on the carrier's website so that customers can get timely assistance from their carriers? Or, given the time-sensitive nature of most fraud, would it make sense to require carriers to have a dedicated and publicized fraud hotline that customers can call directly in the case of suspected fraud? What costs would such a requirement impose on carriers, and how long would it take for carriers to implement? Are any of the Commission's existing rules obstacles to helping customers recover following a SIM swap or port-out fraud incident?

49. We seek comment on whether there are other customer protections we could adopt to address the problems associated with SIM swap and port-out fraud. For example, should the Commission require wireless carriers to enable ''fraud alerts'' on accounts and publicize these services to customers? Such fraud alerts could trigger additional protections when changes are requested on the accounts. Would such a requirement be effective at deterring SIM swap and port-out fraud? Would it have any unintended consequences for customers? What would such a requirement cost? Are there any other consumer protections that would be effective in combatting SIM swap and port-out fraud and, if so, how would they operate? What would be their relative costs and benefits? For example, we understand that in other countries, carriers and financial institutions share information about SIM transfers to limit damages to consumers resulting from incidents of SIM swap fraud. As discussed above, section 222 strictly limits carriers' ability to share a customer's CPNI without the customer's consent. Can we, and should we, encourage carriers to establish a mechanism based on express customer consent that would enable a financial institution to determine whether a SIM transfer had been recently completed to help protect customers from the financial harms of SIM swap and port-out fraud? If so, should we require or encourage carriers to ask for customer permission upon set up of accounts (and to send out one-time notice to all existing customers asking if they want to permit this)? Should such a rule require retention of the record of this permission for some designated period of time? Should carriers be permitted to charge a fee for this service either to the wireless customer or to the financial institution? Are there other types of institutions that might need access to the same type of information to prevent fraud? Should our rules expressly permit or prohibit this type of service? What are the potential risks and benefits to consumers? We seek comment on how we can ensure that customers are able to take advantage of third-party fraud services to protect against SIM swap and port-out fraud.

50. We tentatively conclude that our broad Title III authority would support imposing additional consumer protection obligations such as those discussed in this section on wireless carriers. We also seek comment on whether authority derived from sections 4, 201, 222, 251, 303, and 332 would support such additional consumer protection measures. Should we extend any new consumer protection requirements to interconnected VoIP services, one-way VoIP services, or landline services? If so, pursuant to what legal authority would the Commission adopt such rules? We invite commenters to discuss the relative costs and benefits of these proposals and any foreseeable unintended consequences of the measures we discuss.

51. We seek comment on whether there are standards-setting bodies, industry organizations, or consumer groups that could evaluate this issue to augment our understanding and present possible solutions. For example, could the Alliance for Telecommunications Industry Solutions (ATIS) provide technical expertise that would be useful in determining the best course of action by the Commission to protect customers from SIM swap or port-out fraud? Could relevant trade associations work to develop industry consensus solutions to the problem?

52. *Digital Equity and Inclusion.* Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority. The term ''equity'' is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural

areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 FR 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021).

II. Initial Regulatory Flexibility Analysis

53. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided on the first page of the item. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need For, and Objectives of, the Proposed Rules

54. This item focuses developing protections to address SIM swapping and port-out fraud. In SIM swapping, the bad actor targets a consumer's subscriber identity module (SIM) and convinces the victim's wireless carrier to transfer the victim's service from the original device (and that device's SIM) to a cell phone in the bad actor's possession. A consumer's wireless phone number is associated with the SIM in that consumer's cell phone; by ''swapping'' the SIM associated with a phone number, the bad actor can take control of a consumer's cell phone account. In ''port-out fraud,'' the bad actor, posing as the victim, opens an account with a carrier other than the victim's current carrier. The bad actor then arranges for the victim's phone number to be transferred to (or ''ported out'') to the account with the new carrier controlled by the bad actor.

55. We have received numerous consumer complaints from people who have suffered significant distress, inconvenience, and financial harm as a result of SIM swapping and port-out fraud. Today, we take aim at these scams, with the goal of foreclosing these opportunistic ways in which bad actors take over consumers' cell phone accounts. Section 222 of the Communications Act of 1934, as amended (the ''Act''), and our Customer Proprietary Network Information (CPNI) rules, which govern the use, disclosure, and protection of sensitive customer information to which a telecommunications carrier has access, require carriers to take reasonable measures to discover and protect against attempts to gain unauthorized access to customers' private information. Our Local Number Portability (LNP) rules govern the porting of telephone numbers from one carrier to another. Yet, it appears that neither our CPNI rules nor our LNP rules are adequately protecting consumers against SIM swap and port-out fraud. We, therefore, propose to amend our CPNI and LNP rules to require carriers to adopt secure methods of authenticating a customer before redirecting a customer's phone number to a new device or carrier. We also propose to require providers to immediately notify customers whenever a SIM change or port request is made on customers' accounts, and we seek comment on other ways to protect consumers from SIM swapping and port-out fraud.

B. Legal Basis

56. The legal basis for any action that may be taken pursuant to this NPRM is contained in sections 1, 4(i), 4(j), 201, 222, 251, 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201, 222, 251, 303(r), 332.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

57. 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 proposed rules and policies, if adopted. 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.

58. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe 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 percent of all businesses in the United States, which translates to 30.7 million businesses.

59. 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.

60. 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.

1. Providers of Telecommunications and Other Services

61. *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 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 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 majority of firms in this industry can be considered small.

62. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to 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 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

63. *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 our 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.

64. *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.

65. *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.

66. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local 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 local resellers are small entities.

67. *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.

68. *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 1000 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.

69. 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 our 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, we estimate that the majority of wireless firms can be considered small.

70. *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, we estimate that the majority of satellite telecommunications providers are small entities.

71. *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 our action can be considered small.

2. Internet Service Providers

72. *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.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

73. In this NPRM, we propose to prohibit wireless carriers from effectuating a SIM swap unless the carrier uses a secure method of authenticating its customer. We also propose to amend our CPNI rules to require wireless carriers to develop procedures for responding to failed authentication attempts and to notify customers immediately of any requests for SIM changes. We also seek comment on whether we should impose customer service, training, and transparency requirements specifically focused on preventing SIM swap fraud. We likewise propose to amend our number porting rules to combat port-out fraud while continuing to encourage robust competition through efficient number porting. Specifically, the Commission also proposes to amend the LNP rules to require carriers to send customers a text message or push notification whenever a porting request is made; to require carriers to allow customers the option to freeze their accounts to prevent any unauthorized port-out requests; and to codify the data fields wireless carriers must use to validate a port request. Finally, we also seek comment whether we should adopt any other changes to our rules to address SIM swap and port-out fraud, including the difficulties encountered by victims of these schemes.

74. Should the Commission decide to modify existing rules or adopt new rules to protect customers from SIM swap or porting-out fraud, such action could potentially result in increased, reduced, or otherwise modified recordkeeping, reporting, or other compliance requirements for affected providers of service. We seek comment on the effect of any proposals on small entities. Entities, especially small businesses, are encouraged to quantify the costs and benefits of any reporting, recordkeeping, or compliance requirement that may be established in this proceeding.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

75. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting

requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

76. In this NPRM, we seek comment whether the Commission should modify its CPNI or LNP rules to protect customers from SIM swap and port-out fraud, and, if so, whether our proposals would be effective to do so. In this NPRM, we seek comment on the impact that any proposed rules could have on smaller carriers. We also seek comment on the benefits and burdens, especially the burdens on small entities, of adopting any new or revised rules regarding the customer authentication and porting process. Specifically, we seek comment whether the proposed requirements would impose additional burdens on smaller carriers; whether smaller carriers would face different costs than larger carriers in implementing the new requirements, if adopted; whether smaller carriers would need more time to comply with any new or modified authentication or port-out rules; and whether smaller providers face other obstacles that we have not considered here. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM, in reaching its final conclusions and taking action in this proceeding.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

77. None.

III. Procedural Matters

78. *Ex Parte Rules.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

79. *Initial Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM.* The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

80. *Paperwork Reduction Act of 1995 Analysis.* This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

IV. Ordering Clauses

81. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4, 201, 222, 251, 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201, 222, 251, 303(r), and 332, this Notice of Proposed Rulemaking in WC Docket No. 21–341 *is adopted.*

82. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 52 and 64

Communications, Communications common carrier, Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 52 and 64 as follows:

PART 52—NUMBERING

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

Authority: 47 U.S.C. 151, 152, 153, 154, 155, 201–205, 207–209, 218, 225–227, 251–252, 271, 303, 332, unless otherwise noted.

■ 2. Add § 52.37 to subpart C to read as follows:

§ 52.37 Number Portability Requirements for Wireless Providers.

(a) A wireless provider, including a reseller of wireless service, may only require the data described in paragraphs (b) and (c) of this section to accomplish a simple wireless-to-wireless port order request from an end user customer's new wireless provider.

(b) *Required standard data fields.*

(1) Ported telephone number;

(2) Account number;

(3) Zip code;

(c) *Optional standard data field.* A Passcode field shall be optional unless the passcode has been requested and assigned by the end user, in which case it is required.

(d) *Notification required after port request.* A wireless provider, including a reseller of wireless service, shall notify an end user customer that a port request

has been received for the customer's account before executing a simple wireless-to-wireless port request. A wireless provider shall provide this notification to the end-user customer via text message to the telephone number of record for the customer's account or via push notification.

(e) *Account freezes.* A wireless provider, including a reseller of wireless service, shall offer customers the option to lock their accounts to prohibit unauthorized port requests. If the customer chooses to lock the customer's account, the wireless provider shall not fulfill a simple wireless-to-wireless port order request until the customer deactivates the lock on the account.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 3. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 4. Amend § 64.2010 by:
■ a. Revising paragraphs (b) and (c),
■ b. Redesignating paragraphs (e) through (g) as paragraphs (g) through (i),
■ c. Revising newly redesignated paragraphs (g) and (h), and
■ d. Adding new paragraphs (e) and (f).

The revisions and addition read as follows:

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

* * * * *

(b) *Telephone access to CPNI.* Telecommunications carriers may only disclose call detail information over the telephone, based on customer-initiated telephone contact, if the customer first provides the carrier with a password, as described in paragraph (g) of this section, that is not prompted by the carrier asking for readily available biographical information or account information. If the customer does not provide a password, the telecommunications carrier may only disclose call detail information by sending it to the customer's address of record, or by calling the customer at the telephone number of record. If the customer is able to provide call detail information to the telecommunications carrier during a customer-initiated call without the telecommunications carrier's assistance, then the telecommunications carrier is permitted to discuss the call detail information provided by the customer.

(c) *Online access to CPNI.* A telecommunications carrier must authenticate a customer without the use of readily available biographical information, account information, recent payment information, or call detail information, prior to allowing the customer online access to CPNI related to a telecommunications service account. Once authenticated, the customer may only obtain online access to CPNI related to a telecommunications service account through a password, as described in paragraph (g) of this section, that is not prompted by the carrier asking for readily available biographical information, account information, recent payment information, or call detail information.

* * * * *

(e) *Subscriber Identity Module (SIM) changes.* Telecommunications carriers shall not effectuate a SIM change unless the carrier uses a secure method of authenticating its customer. For purposes of this paragraph, the following shall be considered secure methods of authenticating a customer: (1) Use of a pre-established password; (2) a one-time passcode sent via text message to the account phone number or a pre-registered backup number; (3) a one-time passcode sent via email to the email address associated with the account; or (4) a one-time passcode sent using a voice call to the account phone number or a pre-registered backup number. These methods shall not be considered exhaustive and an alternative customer authentication measure used by a carrier must be a secure method of authentication. For purposes of this section, SIM means a physical or virtual card contained with a device that stores unique information that can be identified to a specific mobile network.

(f) *Procedures for failed authentication for SIM changes.* Wireless carriers shall develop, maintain, and implement procedures for responding to multiple failed authentication attempts.

(g) *Establishment of a password and back-up authentication methods for lost or forgotten passwords.* To establish a password, a telecommunications carrier must authenticate the customer without the use of readily available biographical information, account information, recent payment information, or call detail information. Telecommunications carriers may create a back-up customer authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information, account information, recent payment information, or call detail information. If a customer cannot provide the correct password or the correct response for the back-up customer authentication method, the customer must establish a new password as described in this paragraph.

(h) *Notification of account changes.* Telecommunications carriers must notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, and must not reveal the changed information or be sent to the new account information. Telecommunications carriers shall notify customers immediately of any requests for SIM changes through means that effectively alert customers in a timely manner.

(i) *Business customer exemption.* Telecommunications carriers may bind themselves contractually to authentication regimes other than those described in this section for services they provide to their business customers that have both a dedicated account representative and a contract that specifically addresses the carriers' protection of CPNI.

[FR Doc. 2021–22099 Filed 10–14–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[FAR Case 2021–016, Docket No. FAR–2021–016, Sequence No. 1]

RIN 9000–AO33

Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) to ensure that major Federal agency procurements minimize the risk of climate change. DoD, GSA, and NASA are seeking public input on a potential FAR amendment.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before December 14, 2021 to be considered in the formation of the proposed rule.

ADDRESSES: Submit comments in response to FAR Case 2021–016 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FAR Case 2021–016''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2021–016''. Follow the instructions provided on the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2021–016'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite ''FAR Case 2021–016'' in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hawes, Procurement Analyst, at 202–969–7386 or by email at *jennifer.hawes@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAR Case 2021–016.

SUPPLEMENTARY INFORMATION:

I. Background

On May 20, 2021, President Biden signed Executive Order (E.O.) 14030, Climate-Related Financial Risk (May 25, 2021, 86 FR 27967). The E.O. recognizes that the intensifying impacts of climate change present a set of growing risks to financial assets, companies, communities, and workers. The Federal Government itself is exposed to these same risks. The failure to appropriately and adequately account for these risks threatens the financial and operational effectiveness of the Federal Government and its ability to meet the needs of its citizens.

The E.O. states that the Federal Government should lead by example by appropriately prioritizing Federal investments and conducting prudent fiscal management. One critical lever is ensuring that the Federal Government manages climate-related financial risk within its own procurement activity, while also leveraging its scale as the Nation's largest spender to speed the adoption of key assessment, disclosure, and mitigation measures across the private sector. To that end, section 5(b)(ii) of the E.O. directed the Federal Acquisition Regulatory Council, in consultation with the Chair of the Council on Environmental Quality and the heads of other agencies as appropriate, to consider amending the FAR to ensure that major Federal agency procurements minimize the risk of climate change, including requiring the social cost of greenhouse gas emissions to be considered in procurement decisions and, where appropriate and feasible, giving preference to bids and proposals from suppliers with a lower social cost of greenhouse gas emissions.

As stated in section 5(a) of E.O. 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, the ''social cost'' is an estimate of the monetized damages associated with incremental increases in greenhouse gas emissions (January 25, 2021, 86 FR 7037). Interim estimates on the social cost of carbon, methane, and nitrous oxide under E.O. 13990 were published in February 2021 and are available at *https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.* Recommendations from the Interagency Working Group on the Social Cost of Greenhouse Gases established under E.O. 13990 on considering the social cost of carbon, methane, and nitrous oxide in procurement will also be considered in development of a proposed rule under this FAR case.

Current FAR coverage of greenhouse gas emissions is primarily in subpart 23.8 and the associated clauses in part 52, with definitions at 2.101 and 23.001. FAR Case 2021–015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk, implements section 5(b)(i) of the E.O.; that paragraph requires consideration of a FAR amendment to require major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets.

II. Request for Public Comment

DoD, GSA, and NASA welcome general input from the public on a potential amendment to the FAR to accomplish the stated objectives. Respondents are encouraged to offer their feedback on the following questions:

(a) How can greenhouse gas emissions, including the social cost of greenhouse gases, best be qualitatively and quantitatively considered in Federal procurement decisions, both domestic and overseas? How might this vary across different sectors?

(b) What are usable and respected methodologies for measuring the greenhouse gases emissions over the lifecycle of the products procured or leased, or of the services performed?

(c) How can procurement and program officials of major Federal agency procurements better incorporate and mitigate climate-related financial risk? How else might the Federal Government consider and minimize climate-related financial risks through procurement decisions, both domestic and overseas?

(d) How would (or how does) your organization provide greenhouse gas emission data for proposals and/or contract performance?

(e) How might the Federal Government best standardize greenhouse gas emission reporting methods? How might the Government verify greenhouse gas emissions reporting?

(f) How might the Federal Government give preference to bids and proposals from suppliers, both domestic and overseas, to achieve reductions in greenhouse gas emissions or reduce the social cost of greenhouse gas emissions most effectively?

(g) How might the Government consider commitments by suppliers to reduce or mitigate greenhouse gas emissions?

(h) What impact would consideration of the social cost of greenhouse gases in procurement decisions have on small businesses, including small disadvantaged businesses, women-owned small businesses, service-disabled veteran-owned small businesses, and Historically Underutilized Business Zone (HUBZone) small businesses? How should the FAR Council best align this objective with efforts to ensure opportunity for small businesses?

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2021–22266 Filed 10–14–21; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 86, No. 197
Friday, October 15, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

Comments regarding these information collections are best assured of having their full effect if received by November 15, 2021. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

National Agricultural Statistics Service (NASS)

Title: 2020 Local Foods Marketing Practices Survey—Substantive Change.

OMB Control Number: 0535–0259.

Summary of Collection: General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204 which specifies that ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . .''. The primary objective of the National Agricultural Statistics Service (NASS) is to provide data users with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. To accomplish this objective, NASS relies on the use of diverse surveys that show changes within the farming industry over time.

The National Agricultural Statistics Service (NASS) is seeking approval for this substantive change request to the 2020 Local Foods Marketing Practices Survey. NASS seeks approval to collect additional information of agricultural products marketed as local foods during 2020. In early 2021, NASS collected detailed data on 2020 local food marketing practices. This information came from farmers and ranchers who had previously reported local food marketing activity on prior surveys and census. Upon reviewing the data, a change in the local food marketing patterns was observed which now requires contacting additional producers to get the complete picture of local food marketing practices. As a result, NASS intends to collect additional information from those not previously indicating prior local food marketings. The November 18, 2021 Local Foods release will be delayed until this information along with data collected earlier this year are combined. This information is expected to be released in the first half of 2022.

Need and Use of the Information: The information to be gathered in the Local Food Marketing Practices Survey is vital to the USDA's and the public's understanding of the local foods sector, which in turn informs policymaking and program implementation.

Description of Respondents: Farms: Individuals or households.

Number of Respondents: 30,000.

Frequency of Responses: Once.

Total Burden Hours: 10,799.

Dated: October 12, 2021.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–22504 Filed 10–14–21; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 13, 2021.

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

Comments regarding this information collection received by November 15, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

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

Food and Nutrition Service

Title: School Meals Operations Study: Evaluation of the COVID–19 Child Nutrition Waivers and Child Nutrition Programs.

Control Number: 0584–0607.

Summary of Collection: This is a revision to a currently approved information collection for the School Meals Operations Study: State Agency COVID–19 Child Nutrition Waivers Evaluation (which has been renamed for this revision). This collection is necessary to provide up-to-date information about child nutrition (CN) program operations, including the use and impact of the COVID–19 CN nationwide waivers required by the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116–127). The annual data collected from this study allows the Food and Nutrition Service (FNS) to describe and assess program operations, provide input for legislation and regulations on the CN programs, develop pertinent technical assistance and training for program staff at the State and School Food Authority (SFA) levels, and inform the budget process. This information is necessary for FNS to understand how recent and proposed legislation, regulations, policies, and initiatives change the CN program operations. Because the COVID–19 pandemic has changed the way that school meal programs operate, with other CN programs such as the Child and Adult Care Food Program and the Summer Food Service Program being used in place of or in combination with the National School Lunch and School Breakfast Programs to provide meals to students, this study will collect administrative and web survey data from the States on each of these programs, and web survey data from SFAs on the programs that they operate.

Need and Use of the Information: This mandatory study will collect data from the State CN and School Food Authority (SFA) directors. The State CN directors will complete two online surveys in 2021 and 2022 and two state-level administrative data collections covering Fiscal Years 2021 and 2022. The SFA directors (including those of private schools) will complete one online survey in 2021/2022. The state-level collection activities will focus primarily on collecting the data needed to meet the congressionally-mandated reporting requirements for the nationwide CN COVID–19 waivers specified in section 2202 of the FFCRA and used in Fiscal Years 2021 and 2022. The survey for the SFA directors will focus on the financial impacts of the COVID–19 pandemic and program operations during School Years 2020–2021 and 2021–2022. FNS will use the data to assess meal service levels to determine coverage within and across states, look for patterns and trends across site types, and assess how the waivers were used and how they improved services to children since, in the absence of these waivers, meal service may not have been possible. The information will also inform FNS's planning, policy, and guidance related to state and local meal service operations during future emergency situations and unanticipated school closures.

Description of Respondents: State, Local, or Tribal Government and Not-for-Profit Institutions.

Number of Respondents: 1,339.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 4,116.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–22656 Filed 10–14–21; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest; Lawrence, Meade, Pennington, Custer, and Fall River Counties, South Dakota; Crook and Weston Counties, Wyoming; Revision of the Land and Resource Management Plan for the Black Hills National Forest

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of initiating the assessment phase of the Land Management plan revision for the Black Hills National Forest.

SUMMARY: The Forest Service, U.S. Department of Agriculture, is initiating the Land Management Plan revision process, pursuant to the 2012 Planning Rule (36 CFR 219) and as directed by the National Forest Management Act, for the Black Hills National Forest (Black Hills), located in western South Dakota and northeastern Wyoming. This process will result in a revised Land Management Plan which will guide all resource management activities on the Black Hills National Forest for approximately fifteen years. This notice announces the initiation of the assessment phase, the preliminary stage of the plan revision process. Assessments will identify and consider relevant and readily accessible material about ecological, social, and economic conditions and trends in the planning area, including best available scientific information. Findings will be documented in assessment reports. Trends and conditions identified in the assessments will then help describe a need to change the existing plan and inform the revision of the Forest Plan.

DATES: In the fall and winter of 2021, the public will be invited to engage and participate in the assessment phase of the revision process; engagement opportunities will be posted on the Black Hills National Forest Planning website, located at *http://www.fs.usda.gov/goto/blackhills/forestplanrevision.* The Black Hills will conduct consultation with Tribes as part of the assessment phase of revision. Information will also be shared through electronic mailing lists, social media, and media outlets. If members of the public are interested in learning more, please visit the website listed above and select the link to subscribe to updates on the Black Hills Forest Plan Revision. The public can also sign up by sending an email to *SM.FS.BlackhillFPR@usda.gov.*

The Forest Service will produce a set of draft assessments for public review and comment, expected around March 2022. The Forest Service will review and incorporate public comments and additional information from tribal consultation on the draft assessments and produce a final set of assessments to inform plan revision for the Black Hills National Forest. The Forest Service may then initiate procedures pursuant to the National Environmental Policy Act (NEPA) to prepare a revised Land Management Plan.

ADDRESSES: For questions about Land Management Plan revision or comments on initiating the assessment phase of plan revision, please address mail to: Black Hills National Forest, Attn: Lou Conroy—Forest Plan Revision, 1019 N 5th Street, Custer, SD 57730, or via email to *SM.FS.BlackhillFPR@usda.gov.* All correspondence, including names and addresses, will be part of the public record.

More information on the planning process can also be found on the Black Hills National Forest Planning website at *http://www.fs.usda.gov/goto/blackhills/forestplanrevision.*

FOR FURTHER INFORMATION CONTACT: Lou Conroy, Revision Team Leader, at *louie.conroy@usda.gov* or by phone at (605) 673–9200.

Individuals who use telecommunication devices for the deaf/hard-of-hearing (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The National Forest Management Act (NFMA) of 1976 requires that the Forest Service develop a Land and Resource Management Plan, often called a Forest Plan, for every national forest. Forest Plans provide the strategic direction for management of forest resources and are amendable as conditions change over time.

The Black Hills Forest Plan was first released in 1983, revised in 1997, and amended in 2006. The 2006 version serves as the current Forest Plan for the Black Hills National Forest.

This notice announces the start of the first stage of the process, during which updated information from the public, Tribes, other government agencies, and non-governmental parties, will be compiled into assessment reports. Information relevant to these reports typically includes the status and trends of ecological, social, and economic conditions within the planning area and across the broader landscape. Federal Regulation (36 CFR 219.6) requires the assessment of (1) Terrestrial ecosystems, aquatic ecosystems, and watersheds; (2) Air, soil, and water resources and quality; (3) System drivers, including dominant ecological processes, disturbance regimes, and stressors, such as natural succession, wildland fire, invasive species, and climate change, and the ability of terrestrial and aquatic ecosytems in the plan area to adapt to change; (4) Baseline assessment of carbon stocks; (5) Threatened, endangered, proposed, and candidate species, and potential species of conservation concern present in the plan area; (6) Social, cultural, and economic conditions; (7) Benefits people obtain from the national forest system planning area (ecosystem services); (8) Multiple uses and their contributions to local, regional, and national economies; (9) Recreation settings, opportunities and access, and scenic character; (10); Renewable and nonrenewable energy and mineral resources; (11) Infrastructure, such as recreational facilities and transporation and utility corridors; (12) Areas of tribal importance; (13) Cultural and historic resources and uses; (14) Land status and ownership and access patterns; and (15) Existing designated areas located in the plan area including wilderness and wild and scenic rivers and potential need and opportunity for additional designated areas.

During this assessment phase, the Forest Service invites other government agencies, Tribes, non-governmental parties, and the public to share information about social, economic, and environmental conditions of the Black Hills National Forest and the broader landscape. Existing information about conditions on the Black Hills National Forest, supplemented with information gathered through public engagement and tribal consultation, will be integrated into final resource assessments. The Forest Service will host public outreach forums to share progress and gather additional information.

Responsible Official: The responsible official for the revision of the land and resource management plan for the Black Hills National Forest is Jeff Tomac, Forest Supervisor, Black Hills National Forest, 1019 N 5th Street, Custer, SD 57730, phone 605–673–9200.

Dated: September 27, 2021.

Barnie Gyant,

Associate Deputy Chief, National Forest System.

[FR Doc. 2021–22537 Filed 10–14–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

[Docket No. RBS–21–BUSINESS–0034]

Strategic Economic and Community Development Program

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: The Deputy Under Secretary for Rural Development (RD) is seeking applications for the Strategic Economic and Community Development (SECD) priority, as reauthorized by Section 6401of the Agriculture Improvement Act, 2018 (2018 Farm Bill) with modifications, for projects that support multi-jurisdictional and multi-sectoral strategic community investment plans. In Fiscal Year (FY) 2022, the Agency will implement SECD by reserving loan and or grant funds from the appropriations of the programs covered by this funding priority. This notice describes the requirements by which the Agency will consider projects eligible for the covered programs' reserved appropriated funds and the information needed to submit an application.

DATES: To apply for SECD funding in FY 2022, applicants must submit Form RD 1980–88, ''Strategic Economic and Community Development (Section 6401),'' with their program application to the appropriate covered program. Each of the seven covered programs have different established deadlines for receipt of applications. Please refer to the Agency website or the appropriate covered program's **Federal Register** Notice for deadline information. All applicants are responsible for any expenses incurred in preparing and submitting applications.

ADDRESSES: This notice will be announced on *www.Grants.gov.* SECD applications, with the exception of Community Connect Grant Program SECD applications, must be submitted to the USDA Rural Development Office servicing the area where the project is located. A list of the USDA Rural Development State Offices can be found at: *https://www.rd.usda.gov/about-rd/state-offices.* Community Connect applicants must submit SECD applications electronically at: *https://www.rd.usda.gov/community-connect.* For lenders assigned an OneRD Loan Guarantee Initiative Customer Relationship Manager (CRM), SECD applications must be submitted to their assigned CRM.

FOR FURTHER INFORMATION CONTACT: For more information, please contact your respective Rural Development State Office listed here: *https://www.rd.usda.gov/about-rd/state-offices.*

For all other inquiries, you may contact Greg Batson, Rural Development Innovation Center, U.S. Department of Agriculture, Stop 0793, 1400 Independence Avenue SW, Washington, DC 20250–0783, Telephone: (573) 239–2945. Email: *gregory.batson@usda.gov.*

A checklist of all required application information for regional planning priority can be found at: *https://www.rd.usda.gov/programs-services/strategic-economic-and-community-development.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 6401 of the Agriculture Improvement Act of 2018 (2018 Farm Bill) re-authorized Section 6025 of the Agricultural Act of 2014 (2014 Farm Bill) with some modifications. Section 6401 of the 2018 Farm Bill enables the Secretary of Agriculture to prioritize projects that support multi-jurisdictional and multi-sectoral strategic community investment plans

when applying for program funds. These changes were implemented in an amendment to 7 CFR 1980 subpart K, which published in the **Federal Register** on September 22, 2020. In FY 2022, the Agency will reserve funds from the covered programs, using SECD regulation 7 CFR part 1980, subpart K.

SECD supports projects that promote and implement strategic community investment plans. These plans use the unique strengths of rural communities to advance prosperity. USDA Rural Development helps finance these projects to build community prosperity by using community assets, identifying resources, convening partners and leveraging federal, state, local or private funding.

In FY 2022, the Agency plans to implement SECD through reserving funds from the covered programs' appropriations. This notice provides requirements to applicants submitting applications for the covered programs' reserved funds and establishes the above-mentioned priority effective upon the publication of this notice.

Rural Development: Rural Development: Key Priorities

The Agency encourages applicants to consider projects that will advance the following key priorities of Rural Development:

- Assisting rural communities recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities;
- Ensuring all rural residents have equitable access to USDA-Rural Development programs and benefits from Rural Development funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

For further information, visit *https://www.rd.usda.gov/priority-points.*

A. Statutory Authority

These funds are made available under the Authority of Section 6401 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334); Consolidated Farm and Rural Development Act (7 U.S.C. 2008v).

B. Programs

Section 6401 of the 2018 Farm Bill (7 U.S.C. 2008v), authorizes any program under the Consolidated Farm and Rural Development Act (Pub. L. 87–128), as determined by the Secretary, to give priority to applications that support the implementation of multi-jurisdictional and multi-sectoral strategic community investment plans. In FY 2022, the Agency implements SECD through reserving funds from the covered programs, using SECD regulation 7 CFR part 1980, subpart K.

Accordingly, the Agency is giving priority to projects implementing strategic community investment plans in FY 2022 through the following Rural Development programs:

- Community Facility Loans; see 7 CFR part 1942, subpart A.
- Community Facilities Grants; see 7 CFR part 3570, subpart B.
- Community Facilities Guaranteed Loans; see 7 CFR part 5001.
- Water and Waste Disposal Programs Guaranteed Loans; see 7 CFR part 5001.
- Water and Waste Loans and Grants; see 7 CFR part 1780.
- Rural Business Development Grants; see 7 CFR part 4280, subpart E.
- Community Connect Grants; see 7 CFR part 1739.

II. Award Information

Type of Awards: Guaranteed loans, direct loans and grants.

Fiscal Year Funds: FY 2022 appropriated funds.

Available Funds: The amount of reserved funds available for SECD projects is dependent on the amount of available appropriated funding provided to each of the covered programs during the fiscal year.

Regional Planning Priority

For FY 2022 applications, the following table specifies the percentage of funds being reserved:

Program	Percentage of funds reserved for SECD
Community Facility Loans	10
Community Facilities Grant Program	5
Community Facilities Guaranteed Loans	5
Water and Waste Disposal Programs Guaranteed Loans	10
Water and Waste Loans	5
Water and Waste Grants	3
Rural Business Development Grants	5
Community Connect Grant Program	10

Award Amounts: Guaranteed loans, direct loans and grants will be awarded in amounts consistent with each applicable covered program.

Award Dates: Awards for SECD applications submitted to the covered programs in FY 2022 will be obligated on or before June 30, 2022, except Community Connect. Community Connect SECD awards will be obligated upon completion of all required programmatic reviews. The Agency will return any reserved funds that are not obligated by the obligation deadline to each covered program's regular funding account for obligation of eligible projects in that program.

III. Eligibility Information

A. Eligible Requirements

To be considered for SECD reserved funds, both the applicant and project must meet the eligibility requirements of the covered program. These requirements vary among the covered programs and applicants should refer to the regulations for those programs, which are referenced in I.A. of this notice.

The agency supports community and regional planning through the SECD regulation without making any changes to the applicant eligibility requirements of the covered programs. The SECD regulation includes three criteria that a project must meet in order to be considered for the SECD reserve funding (see 7 CFR 1980.1010):

The first criterion, as noted above, is that the project meets the applicable eligibility requirements of the covered program for which the applicant is applying.

The second criterion is that the project is ''carried out in a rural area'' as defined in 7 CFR 1980.1005. As defined, this means either the entire project is physically located in a rural area or all the beneficiaries of the service(s) provided through the project must either reside in or be located in a rural area. Note that the definition of ''rural'' varies among the covered programs and the Section 6401 regulation does not change those definitions. Therefore, the applicable program regulations as outlined in I.A. should be reviewed as necessary.

The third criterion is that the project supports the implementation of a strategic community investment plan on a multi-jurisdictional and multi-sectoral basis as defined in 7 CFR 1980.1005.

In order to be considered for the reserved funds from covered programs in FY 2022, applicants must (1) meet all requirements of the covered program; (2) meet all requirements in accordance with 7 CFR part 1980, subpart K (see7 CFR 1980.1010); and (3) submit Form RD 1980–88 and the supporting documentation required in 7 CFR 1080.1015 with their program application:

- Sufficient information to show that the project will be carried out in a rural area, as defined by the appropriate covered program; and

• Identification of any current or previous applications the applicant has submitted for funds from the covered programs.

B. Dun and Bradstreet Data Universal Numbering System (DUNS) for Award Management (SAM)

For covered program applicants, a Dun and Bradstreet Data Universal Numbering System (DUNS) number must be obtained and registered in the System for Award Management (SAM) prior to submitting an application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in SAM at all times during which it has an active Federal award or an application or plan under consideration by the Agency. The applicant must ensure that the information in the database is current, accurate, and complete. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM. Similarly, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance to 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b). An applicant, unless excepted under 2 CFR 25.110(b), (c), or (d), is required to: (a) Be registered in SAM before submitting its application; (b) provide a valid DUNS number in its application; and (c) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The Federal awarding agency may not make a federal award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. As required by the Office of Management and Budget (OMB), all grant applications must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at 1–866–705–5711 or via internet at *http://fedgov.dnb.com/webform.* Additional information concerning this requirement can be obtained on the *Grants.gov* website at *http://www.grants.gov.* Similarly, applicants may register for SAM at *https://www.sam.gov* or by calling 1–866–606–8220. The applicant must provide documentation that they are registered in SAM and their DUNS number. If the applicant does not provide documentation that they are registered in SAM and their DUNS number, the application will not be considered for funding. Applicants no longer must complete the following forms for acceptance of a federal award, given that such information is now collected through the registration or annual recertification process in *SAM.gov*: • Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.'' • Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. Lower Tier Covered Transactions.'' • Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants).'' • Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.''

C. Cost Sharing or Matching

Any and all cost sharing, matching, and cost participation requirements of the applicable covered program apply to projects seeking SECD reserved funds.

D. Other Eligibility Requirements

Any and all other eligibility requirements (beyond those identified in III.A of this notice) found in the covered programs applying to applicants, their projects, and the beneficiaries of those projects are unchanged by either this notice or the Section 6401 regulation.

IV. Application Evaluation and Selection for Covered Programs Funds

A. Scoring of Applications

All FY 2022 applications for covered programs will be reviewed, evaluated, and scored based on the covered program's scoring criteria. This notice does not affect that process. This notice only affects the scoring of SECD applications competing for a covered program's SECD reserve funds.

For applicants wishing to be considered for reserved SECD funds in FY 2022, the Agency will review, evaluate, and score each application based on the criteria specified in 7 CFR 1980.1020, to award points for each program's competition for the SECD reserved funds.

B. Selection Process

The Agency will prioritize applications competing for a covered program's reserved funds based on the covered program's awarded points plus the SECD earned points to determine which projects receive reserved funds.

VI. Award Administration Information

A. Award Notices

The Agency will notify SECD applicants who receive funding in a manner consistent with award notifications for the covered program.

B. Administrative and National Policy Requirements

Any and all additional requirements of the applicable covered programs apply to projects receiving funding in response to this notice. Please see the regulations for the applicable covered program.

C. Reporting Requirements

Any and all post-award reporting requirements contained in the covered program apply to all projects receiving reserved funds in response to this notice.

VII. Additional Information

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in 7 CFR part 1980, subpart K, have been approved by Office of Management and Budget (OMB) under OMB Control Number 0570–0068.

Federal Funding Accountability and Transparency Act

All applicants, in accordance with 2 CFR part 25, must have a DUNS number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *https://fedgov.dnb.com/webform.* Similarly, all grant applicants must be registered in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at *http://www.sam.gov/SAM.* All recipients of Federal financial grant assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

Civil Rights

Programs referenced in this Notice are subject to applicable Civil Rights Laws. These laws include the Equal Credit Opportunity Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Section 504 of the Rehabilitation Act of 1973.

Nondiscrimination Statement

In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

Justin Maxson,

Deputy Under Secretary, Rural Development.

[FR Doc. 2021–22499 Filed 10–14–21; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Virginia Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

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 that the Virginia Advisory Committee (Committee) will hold a web-based meeting on Thursday, November 16, 2021 at 2:00 p.m. Eastern Time. The purpose of the meeting is to hear testimony regarding on police accountability in Virginia.

DATES: Thursday, November 16, 2021, at 2:00 p.m.–4:00 p.m. Eastern Time.

Online Registration

Register online (audio/visual): https://bit.ly/3an93pb

Join by phone (audio only): 800–360–9505 USA Toll Free; Access code: 2762 662 9419

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number, or participate online via the above online registration link. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captions will be provided. 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 the conference call number and conference ID number. Persons with disabilities requiring other accommodations are invited to contact the Regional Programs Unit at (202) 618–4158 or email Corrine Sanders at *csanders@usccr.gov* 10 business days prior to the meeting to make their request.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at *mwojnaroski@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Virginia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome & Roll Call
II. Panel Discussion: Civil Rights and Police Accountability in Virginia
III Committee Members Q & A
IV. Public Comment
V. Adjournment

Dated: October 8, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–22459 Filed 10–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; West Coast Region Permit Family of Forms

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before December 14, 2021.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *Adrienne.thomas@noaa.gov.* Please reference OMB Control Number 0648–0204 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dana Preedeedilok, Permits Branch, National Marine Fisheries Service (NMFS), West Coast Region (WCR) Long Beach Office, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, (562) 980–4019, and *Dana.Preedeedilok@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a revision and extension to the existing reporting requirements of the collection of information *West Coast Region Family of Forms (0648–0204).* In addition to the extension of *West Coast Region Family of Forms (0648–0204)* this request includes a revision to this collection. The revision will include the addition of Letters of Authorization (LOA) and Exempted Educational Activity Authorizations (EEAA). Currently, LOAs and EEAAs are part of Information Collection Request (ICR) *Scientific Research, Exempted Fishing, and Exempted Educational Activity Submissions (0648–0309).*

Originally this information was collected under information collection 0648–0309 which included EFPs, EEAAs, and LOAs for all NOAA regions. Beginning in November 2021, these collections will be maintained by each regional office. Therefore, this notice proposes to combine the relevant collection information from 0648–0309 with the WCR's information collection 0648–0204.

The WCR Permits Office administers permits required for persons participating in Federally-managed fisheries off the West Coast under the Magnuson-Stevens Fishery Conservation and Management act, 16 U.S.C. 1801 *et seq.* Section 303 (b)(1) of the Magnuson-Stevens Act specifically authorizes the establishment of permit requirements. Almost all international, federal, state, and local fishery management authorities use permits as part of their management systems.

The Magnuson-Stevens Act established regional fishery management councils, including the Pacific Fishery Management Council (Pacific Council), to develop fishery management plans (FMP) for fisheries in the U.S. exclusive economic zone (EEZ). These plans, if approved by the Secretary of Commerce, are implemented by Federal regulations, which are enforced by the National Marine Fisheries Service (NMFS) and the U.S. Coast Guard (USCG), in cooperation with State agencies to the extent possible. FMPs are intended to regulate fishing for stocks to prevent overfishing and achieve the optimum yield from the fisheries for the benefit of the U.S. The Pacific Council has prepared FMPs for the coastal pelagic species (CPS) fishery and Pacific Highly Migratory Species (HMS) off the U.S. West Coast. Each of these FMPs created permit programs which are administered by the West Coast Region, NMFS.

There are two types of regulatory permits used by the WCR: Open access fishery permits and limited entry permits for selected fisheries. Open access permits are used in all fisheries where there are no specific limitations or eligibility criteria for entry to the fishery. Limited entry permits are used to prevent overcapitalization or address other management goals in the fishery and limit the number of applicants permitted to participate in the fishery. Applicants for both open access and limited entry permits are required to submit applications to obtain these permits but are not required to submit reports on their fishing activities under these permits. These permits are part of ICR 0648–0204.

Exempted fishing permits (EFPs) are issued to applicants for fishing activities that would otherwise be prohibited under a fisheries management plan. Applicants for an EFP must submit written information that allows NOAA Fisheries and the Pacific Fishery Management Council to evaluate the proposed exempted fishing project activities and weigh the benefits and costs of the proposed activities. The Council makes a recommendation on each EFP application and for successful applicants, NOAA Fisheries issues the EFP which contains terms and conditions for the project including various reporting requirements. The information included in an application is specified at 50 CFR 600.745(b)(2) and the Pacific Council Operating Procedure #19. EFP holders are required to file preseason harvest plans, interim and/or final summary reports on the results of the project, and in some cases individual vessels and other permit holders are required to provide data reports (*i.e.,* logbooks and/or catch reports). The results of EFPs are commonly used to explore ways to reduce effort on depressed stocks, encourage innovation and efficiency in the fishery, and provide access to constrained stocks by directly measuring the bycatch associated with current and proposed management measures. EFPs are currently part of ICR 0648–0204.

Letters of Authorization (LOAs) and Exempted Educational Activity Authorizations (EEAAs) were historically collected under OMB control number 0648–0309. To reduce burden estimates, National Marine Fisheries Service (NMFS) Headquarters proposes to move LOAs and EEAAs to their respective region's permit family-of-forms collections. NMFS may use these permits to grant exemptions from fishery regulations for educational or other activities (*e.g.,* using nonregulation gear). An EEAA is a permit issued by the Regional Office to accredited educational institutions that authorize, for educational purposes, the target or incidental harvest of species managed under a fisheries management plan or fishery regulations that would otherwise be prohibited. EEAAs are generally of limited scope and duration and authorize the take of the amount of fish necessary to demonstrate the lesson. Researchers are requested to submit scientific research plans prior to undertaking those activities, along with reports of their scientific research activity after its completion. LOAs are required under Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA) of 1972 for the incidental take of marine mammals during fisheries surveys and related research activities conducted by the Northwest Fisheries Science Center (NWFSC), NMFS. Management of certain marine mammals falls under the jurisdiction of the NMFS under the MMPA and Endangered Species Act (ESA) and mechanisms exist under both the MMPA and ESA to assess the effect of incidental takings and to authorize appropriate levels of take.

II. Method of Collection

The primary method of collection is via an electronic (internet) submission form; paper applications are also available and may be submitted by mail to the Long Beach Permits Office.

III. Data

OMB Control Number: 0648–0204.
Form Number(s): None.

Type of Review: Regular submission (Revision and extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 787.

Estimated Time per Response: Highly Migratory Species (Paper), New—20 minutes; Highly Migratory Species (Online), New—15 minutes; HMS Paper; Renew—10 minutes; HMS Online, Renew—5 minutes ; CPS Renewal—10 minutes; CPS Transfer—30 minutes; LE DGN Renew—10 minutes; LE DGN Transfer—30 minutes; LE DGN Designation Request—30 minutes; LE DGN Exemption Request—30 minutes; Appeals—240 minutes; Scientific research plans—13 hours; scientific research reports—7 hours exempted fishing permit requests; 60 minutes, exempted fishing permit reports, 4.5 hours; exempted educational requests, 5 hours; exempted educational reports, 2.5 hours.

Estimated Total Annual Burden Hours: 197.2 hours.

Estimated Total Annual Cost to Public: $13,331.00.

Respondent's Obligation: Required to obtain a permit. Keep a valid vessel permit while fishing and provide accurate data on forms.

Legal Authority: MSA.MMPA, ESA.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2021–22533 Filed 10–14–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB509]

Marine Mammals; File No. 25943

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Stephen John Trumble, Ph.D., Baylor University, 101 Bagby Ave., Waco, TX 76706, has applied in due form for a permit to import, export, and receive parts from cetaceans for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before November 15, 2021.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 25943 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 25943 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D., or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to import, export, and receive cetacean parts for scientific research to chronologically profile anthropogenic contaminants, physiological stress, and reproductive hormones from cetaceans to determine influence of anthropogenic and environmental stressors. Parts from up to 100 individuals of each of the following species may be obtained annually: Blue (*Balaenoptera musculus*), bowhead (*Balaena mysticetus*), Bryde's (*B. edeni*), fin (*B. physalus*), gray (*Eschrichtius robustus*), humpback (*Megaptera novaeangliae*), minke (*B. acutorostrata*), North Atlantic right (*Eubalaena glacialis*), North Pacific right (*E. japonica*), Rice's (*Balaenoptera ricei*), sei (*B. borealis*), Southern right (*E. australis*), and sperm (*Physeter macrocephalus*) whales, and unidentified cetaceans. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 12, 2021.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–22539 Filed 10–14–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB493]

Membership of the National Oceanic and Atmospheric Administration Performance Review Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of membership of the NOAA Performance Review Board.

SUMMARY: NOAA announces the appointment of members who will serve on the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) members and making written recommendations to the appointing authority on retention and compensation matters, including performance-based pay adjustments, awarding of bonuses, and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for a period of 2 years.

DATES: The effective date of service of the ten appointees to the NOAA Performance Review Board is October 27–29, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. McLeod, Human Resources Specialist, Executive Resources Division, Office of Human Capital Services, NOAA, 1315 East-West Highway, Silver Spring, Maryland 20910, (301) 628–1883.

SUPPLEMENTARY INFORMATION: The names and positions of the members for the 2021 NOAA PRB are set forth below:

- Steven Thur, Chair: Director, National Center for Coastal Ocean Services, National Ocean Service, NOAA
- David Michaud, Co-Chair: Director, Office of Central Processing, National Weather Service, NOAA
- James A. St. Pierre: Deputy Director, Information Technology Laboratory, National Institute of Standards and Technology
- Carrie Robinson: Director, Habitat Conservation, National Marine Fisheries Service, NOAA
- Michelle Mainelli-McInerney: Director, Office of Dissemination, National Weather Service, NOAA
- Kelly Mabe: Deputy Director, Acquisition and Grants Office, NOAA
- Walker B. Smith: General Counsel, NOAA
- James Donnellon: Chief Financial Officer-Chief Administrative Officer, National Environmental Satellite, Data, and Information Service, NOAA
- Kevin Kimball: Chief of Staff, National Institute of Standards and Technology
- John Cortinas: Director, Atlantic Oceanographic and Meteorological Laboratory, Office of Oceanic and Atmospheric Research, NOAA
- Juliana Blackwell: Director, Office of National Geodetic Survey, National Ocean Service, NOAA
- Deidre Jones: Chief Administrative Officer, NOAA
- Karen Hyun: Chief of Staff, NOAA
- Mark Seiler, Chief Financial Officer, NOAA

Dated: October 8, 2021.

Richard W. Spinrad,

Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator.

[FR Doc. 2021–22491 Filed 10–14–21; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0103]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is establishing a new system of records titled ''Office of Military Commissions (OMC), Office of Court Administration's Nominees and Panel Member Records,'' DGC 23. This system will be used to verify panel members' eligibility to serve on the panel, confirm panel members' clearances, and coordinate their travel to the location of the court.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before November 15, 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: Ms. Alva C. Foster, Office of Information Counsel, DoD General Counsel (Legal Counsel), 1600 Defense Pentagon, Room 3B688, Washington, DC 20301, *alva.c.foster.civ@mail.mil* or by phone at (571) 286–0254.

SUPPLEMENTARY INFORMATION:

I. Background

The OSD is establishing a new system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. This set of records provides the OMC the necessary means to support the selection of panel members for military commissions trials by: (1) Coordinating with military Service representatives to identify commissioned and warrant officers who may be eligible to serve as panel members; (2) verifying and/or requesting security clearances for those individuals; and (3) collecting the necessary information to process and coordinate travel requirements for those individuals, as required by 10 U.S.C. 948i(b) and the Manual for Military Commissions (2019 Edition), Rules for Military Commissions (R.M.C.) 503(a).

DoD system of record notices (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/privacy.*

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 DPCLTD has provided a report of this system of records to the OMB and to Congress.

Dated: October 12, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Office of Military Commissions (OMC), Office of Court Administration's Nominees and Panel Member Records, DGC 23.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Paper records are maintained at Office of Military Commissions, Attn: Office of

Court Administration, 1550 Crystal Drive, Suite 501, Arlington, VA 22202. Electronic records are maintained at both the above address and on the server of Office of Military Commissions, Attn: Office of Court Administration, 4800 Mark Center Drive, Alexandria, VA 22350–2100.

SYSTEM MANAGER(S):

Chief, Office of Court Administration, Office of Military Commissions, 1550 Crystal Drive, Suite 501, Arlington, VA 22202. Email: *osd.pentagon.rsrcmgmt.list.court-members@mail.mil.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 47A, Military Commissions; Military Commissions Act of 2009; Regulation for Trial by Military Commission (2011 Edition); Manual for Military Commissions United States (2019 Edition), R.M.C. 503(a); Deputy Secretary of Defense Directive: Nominees for Members of Military Commissions; E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

To support the selection of panel members for military commissions trials by: (1) Coordinating with military Service representatives to identify commissioned and warrant officers who may be eligible to serve as panel members; (2) verifying and/or requesting security clearances for those individuals; and (3) collecting the necessary information to process and coordinate travel requirements for those individuals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military Service members nominated or selected to serve as panel members.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Biographical information, such as name; Social Security Number (SSN); date of birth; place of birth; gender height, weight, and blood type.

B. Personal and assignment information, such as home address; government email address; personal email address; home and work telephone numbers; duty location and address; supervisor or unit point of contact; and emergency point of contact.

C. Military occupation information, such as: Rank; grade; branch of service; date of rank; active duty service date; security clearance level and date; command position information; deployment information; emergency point of contact name and contact information; OMC case number.

RECORD SOURCE CATEGORIES:

The individual; panel member data forms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, as amended, all or a portion of the records or information 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, 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 the DoD suspects or confirms a breach of the system of records; the DoD determines 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 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 responding to a suspected or confirmed breach or 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 another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or some other review as authorized by the Inspector General Act.

J. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

K. To DoD security personnel to assist in the verification of security clearances of commission members and panel members that are necessary to perform their required duties for the military commission hearings and trials.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic and paper. Electronic records may be stored locally on digital media; 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:

Retrieved by name and SSN.

POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

Disposition pending (treat records as permanent until the National Archives and Records Administration has approved the retention and disposal schedule).

ADMINISTRATIVE, PHYSICAL, AND TECHNICAL SAFEGUARDS:

Paper records are maintained in a controlled facility with locks, security guards, and key cards. Access to records is limited to authorized persons who are responsible for servicing the records in

the performance of their official duties and who are properly screened and cleared. Electronic records maintained in Adobe PDF and are password protected and accessible through the use of common access cards of users with an authorized account. Additional safeguards include: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; network encryption to protect data transmitted over the network and mandatory information assurance and privacy training for individuals who will have access.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20701–1155. Signed, written requests should include the individual's full name, current address and telephone number, street address, email address, case name, as well as the name and number of this system of records notice. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in 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 published in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

N/A.

[FR Doc. 2021–22530 Filed 10–14–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0108]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Evaluation of Teacher Residency Programs

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before November 15, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Meredith Bachman, (202) 245–7494.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Impact Evaluation of Teacher Residency Programs.

OMB Control Number: 1850–0960.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 637.

Total Estimated Number of Annual Burden Hours: 394.

Abstract: The U.S. Department of Education (ED)'s Institute of Education Sciences (IES) requests clearance for data collection activities to support a study of teacher residency programs. Teacher residency programs aim to better prepare new teachers by combining education coursework with extensive on-the-job training. Program participants complete a full-year apprenticeship, or ''residency,'' under the supervision of an experienced mentor teacher before they become teachers of record. The programs help meet the needs of their partner districts by preparing teachers to fill shortages in high-needs schools and subjects. They offer financial support for residents in exchange for a commitment to teach for at least three to five years in the district, in an effort to improve teacher retention. This financial support may also help expand the pool of teacher candidates by encouraging people to enter the profession who might be deterred by the cost of a traditional teacher preparation program. This second request covers additional data collection activities for the study to examine program outcomes. A prior request (1850–0960, approved 4/26/2021) covered the collection of classroom rosters from schools to support random assignment of students to participating teachers.

Dated: October 12, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–22493 Filed 10–14–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–2755–000.
Applicants: Effingham County Power, LLC.
Description: Amendment to August 24, 2021 Effingham County Power, LLC tariff filing.
Filed Date: 10/8/21.
Accession Number: 20211008–5235.
Comment Date: 5 p.m. ET 10/15/21.

Docket Numbers: ER21–2774–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to Revisions to Sch. 12-Appx A: July 2021 RTEP to be effective 11/24/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5268.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–70–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Rate Schedule No. 348, Concurrence to CAISO RS No. 6889 to be effective 12/1/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5095.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–71–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: § 205(d) Rate Filing: WPC TCEC Ex A and C Filing to be effective 10/1/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5101.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–72–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA and ICSA, Service Agreement Nos. 6198 and 6199; Queue No. AE1–104 to be effective 9/9/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5109.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–73–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: Tariff Amendment: 2021–10–08 NSP–GFLS–A&R TSA–436–NOC–0.1.0 to be effective 12/31/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5194.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–74–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2021–10–08_STR Tariff Waiver Request to be effective N/A.
Filed Date: 10/8/21.
Accession Number: 20211008–5224.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–75–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–10–08_STR Regulating Reserve Tariff filing to be effective 5/1/2022.
Filed Date: 10/8/21.
Accession Number: 20211008–5225.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–76–000.
Applicants: Florida Power & Light Company.
Description: § 205(d) Rate Filing: FPL and Seminole Pseudo-Tie Agreement for Seminole's Delivery Points to be effective 10/9/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5227.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–77–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: DSA Homestead Energy Storage SA No. 1158 WDT1710 to be effective 12/8/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5230.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–78–000.
Applicants: Idaho Power Company.
Description: § 205(d) Rate Filing: SA 424—PowerEx—Jeff to Bora to be effective 4/1/2022.
Filed Date: 10/8/21.
Accession Number: 20211008–5243.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–79–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: DEP-Powells Creek ASOA SA No. 365 to be effective 12/8/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5253.
Comment Date: 5 p.m. ET 10/29/21.

Docket Numbers: ER22–80–000.
Applicants: Coyote Ridge Wind, LLC.
Description: Baseline eTariff Filing: Filing of Reactive Supply Service Rate Schedule FERC No. 1 to be effective 10/12/2021.
Filed Date: 10/8/21.
Accession Number: 20211008–5266.
Comment Date: 5 p.m. ET 10/29/21.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: October 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–22495 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–69–000]

Indeck Niles, 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 Indeck Niles, 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 October 28, 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: October 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–22497 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–50–000; Docket No. CP20–51–000]

Tennessee Gas Pipeline Company, LLC and Southern Natural Gas Company, LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Evangeline Pass Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Evangeline Pass Expansion Project (Project), proposed by Tennessee Gas Pipeline Company, LLC (Tennessee) and Southern Natural Gas Company, LLC (SNG) in the above-referenced dockets.

Tennessee requests authorization to construct and operate about 13 miles of 36-inch-diameter pipeline and a new compressor station in St. Bernard and Plaquemines Parishes, Louisiana. SNG requests authorization to construct and operate a new compressor station and three new meter stations in Clarke and Smith, Counties, Mississippi; and St. Bernard Parish, Louisiana. The Project would enable the transportation of up to 1,100,000 dekatherms per day of natural gas to an interconnect with Venture Global Gator Express, LLC's Gator Express Pipeline to provide feed gas for Venture Global Plaquemines LNG, LLC's facility in Plaquemines Parish, Louisiana.

The final EIS assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act. The final EIS is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding.

The final EIS responds to comments that were received on the Commission's August 24, 2020 Environmental Assessment (EA) and July 16, 2021 draft EIS [1] and discloses downstream greenhouse gas emissions for the Project. With the exception of climate change impacts, FERC staff concludes that approval of the proposed Project, with the mitigation measures recommended in this final EIS, would not result in significant environmental impacts. FERC staff continues to be unable to determine significance with regards to climate change impacts.

The final EIS incorporates the above referenced EA, which addressed the potential environmental effects of the construction and operation of the following Project facilities, by the respective applicants:

Tennessee

- About 9 miles of 36-inch-diameter looping [2] pipeline in St. Bernard Parish, Louisiana (Yscloskey Toca Lateral Loop);
- about 4 miles of 36-inch-diameter looping pipeline in Plaquemines Parish, Louisiana (Grand Bayou Loop); and
- a new 23,470 horsepower (hp) compressor station consisting of one natural gas-fired Solar Turbines Titan 130 turbine driven compressor unit along Tennessee's existing 500 line in St. Bernard Parish, Louisiana (Compressor Station 529).

SNG

- A new 22,220 hp compressor station consisting of two natural gas-fired Solar Taurus 70 turbines (11,110 hp each) in Clarke County, Mississippi (Rose Hill Compressor Station); and
- *three new meter stations:* Rose Hill Receipt Meter Station in Clarke County, Mississippi; Midcontinent Express Pipeline Receipt Meter Station in Smith County, Mississippi; and Toca Delivery Meter Station in St. Bernard Parish, Louisiana.

The Commission mailed a copy of the *Notice of Availability of the Final Environmental Impact Statement for the Evangeline Pass Expansion Project* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The final EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the final EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*) select ''General Search'' and enter the docket number in the ''Docket Number'' field (*i.e.* CP20–50–000 or CP20–51–000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the *eLibrary* link. 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 that 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

[1] The Project's EA is available on eLibrary under accession no. 20200824–3066 and the draft EIS is available under accession no. 20210716–3005.

[2] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: October 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–22516 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4202–025]

KEI (Maine) Power Management (II) LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 4202–025.

c. *Date Filed:* September 28, 2021.

d. *Applicant:* KEI (Maine) Power Management (II), LLC (KEI Power).

e. *Name of Project:* Lowell Tannery Project (project).

f. *Location:* On the Passadumkeag River in Penobscot County, Maine. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Lewis C. Loon, KEI (Maine) Power Management (II), LLC c/o KEI (USA) Power Management Inc., 423 Brunswick Avenue, Gardiner, ME 04345; Phone at (207) 203–3025, or email at *Lewis.Loon@kruger.com.*

i. *FERC Contact:* Arash Barsari at (202) 502–6207, or *arash.jalalibarsari@ferc.gov.*

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* November 27, 2021.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* 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, MD 20852. All filings must clearly identify the project name and docket number on the first page: Lowell Tannery Project (P–4202–025).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Lowell Tannery Project consists of: (1) A 230-foot-long, 21.5-foot-high concrete gravity dam that includes the following sections: (a) A left abutment section; (b) a 30-foot-long primary spillway with 42-inch-high flashboards and a crest elevation of 187.5 feet mean sea level (msl) at the top of the flashboards; (c) a 30.2-foot-long section with a seven-foot-wide log sluice and a ten-foot-wide tainter gate; (d) an 89-foot-long auxiliary spillway with 42-inch-high flashboards and a crest elevation of 187.5 feet msl at the top of the flashboards; (e) a 22.2-foot-long intake structure with two 15.5-foot-wide, 15.8-foot-high, angled trashracks with 1.5-inch clear bar spacing; and (f) a right abutment section; (2) an impoundment with a surface area of approximately 341 acres at an elevation of 187.5 feet msl; (3) a 69.4-foot-long, 26.7-foot-wide concrete powerhouse containing a 1,000-kilowatt vertical Kaplan turbine-generator unit; (4) a tailrace channel that discharges into the Passadumkeag River; (5) a 2.3/12.5-kilovolt (kV) step-up transformer and a 200-foot-long, 12.5-kV transmission line that connects the generator to the local utility distribution system; and (6) appurtenant facilities.

Article 19 of the current license requires the project to be operated in run-of-river mode. The average annual generation of the project was approximately 4,144 megawatt-hours from 2016 through 2020. The project creates an approximately 70-foot-long bypassed reach of the Passadumkeag River.

Downstream fish passage is provided by a bypass facility located adjacent to the left side of the intake structure and powerhouse, and consists of a 3.7-foot-wide log sluice, a 5.1-foot-wide, 5.8-foot-long concrete fish collection box, and a 69.7-foot-long, 18-inch-diameter fiberglass fish passage pipe that discharges into a plunge pool next to the tailrace. Upstream fish passage is provided by a 3-foot-wide Denil fishway located adjacent to the right side of the intake structure and powerhouse.

KEI Power proposes to: (1) Continue to operate the project in a run-of-river mode; (2) install upstream and downstream eel passage facilities; (3) install seasonal trashrack overlays with 0.875 inch diameter holes; (4) modify the discharge location of the existing downstream fish passage pipe to discharge adjacent to the existing upstream fish passage entrance; and (5) develop a fishway operation and management plan.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) 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 (P–4202). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural Schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—November 2021
Request Additional Information—November 2021
Issue Scoping Document 1 for comments—February 2022
Request Additional Information (if necessary)—March 2022
Issue Acceptance Letter—March 2022
Issue Scoping Document 2—April 2022
Issue Notice of Ready for Environmental Analysis—April 2022

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: October 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–22515 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 943–134]

Public Utility District No. 1 of Chelan County, Washington; Notice of Application for Approval of Contract for the Sale of Power Under Section 22 of the Federal Power Act

Take notice that on September 22, 2021, Public Utility District No. 1 of Chelan County, Washington (Chelan PUD), filed with the Commission an application for approval of a contract for the sale of power from its licensed Rock Island Hydroelectric Project No. 943 (the ''Rock Island Project'') for a period beyond the expiration of its existing license for the project. The project is located on the Columbia River in Chelan and Douglas counties, Washington.

Section 22 of the Federal Power Act, 16 U.S.C. 815, provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service commission or other similar authority in the state in which the sale or delivery of power is made.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.*

Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs- filing/ecomment.asp.* You must include your name and contact information at the end of your comments. 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–15226–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15226) in the docket number field to access the document. For assistance, contact FERC Online Support.

Comment Date: 5:00 p.m. Eastern Time on November 8, 2021.

Dated: October 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–22520 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15045–000]

Current Hydro Project 19, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* P–15045–000.

c. *Date Filed:* August 11, 2021.

d. *Submitted By:* Current Hydro Project 19, LLC (Current Hydro 19).

e. *Name of Project:* New Cumberland Locks and Dam Hydroelectric Project.

f. *Location:* At the U.S. Army Corps of Engineers' (Corps) New Cumberland Locks and Dam on the Ohio River in Hancock County, West Virginia and Jefferson County, Ohio. The project would occupy federal land administered by the Corps.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Joel Herm, P.O. Box 224, Rhinebeck, NY 12572–0224; (917) 224–3607; *joel@currenthydro.com.*

i. *FERC Contact:* Jody Callihan at (202) 502–8278, or at *jody.callihan@ferc.gov.*

j. Current Hydro 19 filed its request to use the Traditional Licensing Process on August 11, 2021 and provided public notice of its request on the same date. In a letter dated October 8, 2021, the Director of the Division of Hydropower Licensing approved Current Hydro 19's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the West Virginia and Ohio State Historic Preservation Officers, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Current Hydro 19 as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Current Hydro 19 filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed and/or printed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission

has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). Register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–22521 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1388–081]

Southern California Edison; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 1388–081.

c. *Dated Filed:* August 12, 2021.

d. *Submitted By:* Southern California Edison.

e. *Name of Project:* Lee Vining Hydroelectric Project.

f. *Location:* Approximately 9 miles upstream of Mono Lake and the Town of Lee Vining, in Mono County, California. The project occupies land within the Inyo National Forest administered by the U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.5 of the Commission's regulations.

h. *Applicant Contact:* Matthew Woodhall, Relicensing Project Manager, Southern California Edison, Southern California Edison Company 1515 Walnut Grove Avenue, Rosemead, CA 91770, (626) 302–9596, *matthew.woodhall@sce.com.*

i. *FERC Contact:* Kelly Wolcott at (202) 502–6480 or *kelly.wolcott@ferc.gov.*

j. Southern California Edison (SCE) filed its request to use the Traditional Licensing Process on August 12, 2021. YCWA provided public notice of its request on September 7, 2021. In a letter dated October 8, 2021, the Director of the Division of Hydropower Licensing approved YCWA's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the California State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating SCE as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. SCE filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

o. The applicant states its unequivocal intent to submit an application for a new license for Project No.1388–081. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 2024.

p. Register online at *https://ferconline.ferc.gov/eSubscription.aspx* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 8, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–22517 Filed 10–14–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9104–01–OA]

Announcement of the Board of Directors for the National Environmental Education Foundation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of appointment and re-appointment.

The National Environmental Education and Training Foundation (doing business as The National Environmental Education Foundation or ''NEEF'') was created as a private 501(c)(3) non-profit organization. It was established by Congress as a common ground upon which leaders from business and industry, all levels of government, public interest groups, and others can work cooperatively to raise a greater national awareness of environmental issues beyond traditional classrooms.

Per NEEA, the EPA Administrator appoints and reappoints eligible individuals to serve on NEEF's Board of Directors. The Administrator announces the following four-year appointments to NEEF's Board of Directors, effective 90 days after publication of this notice:

- Dr. Robert D. Bullard, Texas Southern University
- Sally Cole, Apple
- Omar Mitchell, National Hockey League
- Arturo Garcia-Costas, New York Community Trust

Mr. Kevin Coyle, Toyota will be re-appointed for an additional four-year term.

Additional considerations: As an independent foundation, NEEF is different from the Agency's several federal advisory committees and scientific boards, which have their own appointment processes. Because NEEA gives complete discretion to the Administrator in appointing members to NEEF's Board of Directors, EPA is taking additional steps to ensure all prospective members are qualified to serve on the Board and represent diverse points of view. In early 2021, EPA's Office of the Administrator

formed an internal review panel comprised of senior EPA career officials tasked with verifying the qualifications of all future members of the NEEF Board of Directors selected by the Administrator. All new Board appointees underwent review by the panel prior to publication of this notice. These appointees will join the current Board members. Information on the Board members is available on NEEF's public website: *https://www.neefusa.org/about-neef/board.*

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice of Appointment, please contact Hiram Lee Tanner III. (202) 564–4988, Director for Office of Environmental Education, U.S. EPA 1200 Pennsylvania Avenue NW, Washington, DC 20460. General information concerning NEEF may be found here: *https://www.neefusa.org/.*

SUPPLEMENTARY INFORMATION: Section 10(a) of the National Environmental Education Act of 1990 (NEEA) establishes the National Environmental Education Foundation and its underlying terms. The statute in its entirety is available on EPA's website and may be accessed here: *https://www.epa.gov/education/national-environmental-education-act#s10.*

Section 10 of the NEEA provides the following, in pertinent part:

(a) Establishment and Purposes—

(1) ESTABLISHMENT—(A) There is hereby established the National Environmental Education Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States.

(2) PURPOSES—The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) herein, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system; and

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) PROGRAMS—The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development of environmental education and training programs and studies.

(b) Board of Directors—

(1) ESTABLISHMENT AND MEMBERSHIP—(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as 'the Board'), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the EPA and with the intents and purposes of this Act. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(2) APPOINTMENT AND TERMS—(A) Members of the Board shall be appointed by the EPA Administrator.

(B) Within 90 days of the date of the enactment of this Act, and as appropriate thereafter, the Administrator shall publish in the **Federal Register** an announcement of appointments of Directors of the Board. Such appointments become final and effective 90 days after publication of the notice of appointment.

(C) The directors shall be appointed for terms of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the way the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

Hiram Tanner,

Director, Office of Environmental Education.

[FR Doc. 2021–22494 Filed 10–14–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2021–0692; FRL–9132–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Downwinders at Risk et al.* v. *Regan,* No. 21–cv–03551 (N.D. Cal). On May 12, 2021, Downwinders at Risk, Sierra Club, Center for Biological Diversity, Air Alliance Houston, Texas Environmental Justice Advocacy Services, Clean Wisconsin, Appalachian Mountain Club, Earthworks, Natural Resources Defense Council, and Environmental Defense Fund (Plaintiffs) filed a complaint in the United States District Court for the Northern District of California alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to take final action to approve or disapprove, in whole or in part, 32 state implementation plan submissions (SIPs) addressing interstate pollution transport for the 2015 ozone national ambient air quality standards (NAAQS) by statutory deadlines. The proposed consent decree would establish deadlines for EPA to act on these SIP submissions.

DATES: Written comments on the proposed consent decree must be received by *November 15, 2021.*

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2021–0692, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the

''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Rosemary E. Hambright, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (202) 564–8829; email address *hambright.rosemary.e@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2021–0692) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish deadlines for EPA to take action pursuant to CAA section 110(k) on certain SIP submissions addressing the requirements of CAA section 110(a)(2)(D)(i)(I), 42 U.S.C. 7410(a)(2)(D)(i)(I) (the good neighbor or interstate transport provision), to resolve a lawsuit filed by the Plaintiffs. Plaintiffs alleged that the EPA failed to perform certain non-discretionary duties in accordance with the Act to take final action to approve or disapprove, in whole or in part, SIPs addressing interstate pollution transport for the 2015 ozone national ambient air quality standards (NAAQS) by statutory deadlines for the following states: Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming.

Pursuant to CAA section 110(k), 42 U.S.C. 7410(k), SIP submissions are deemed complete by operation of law 6 months after receipt by EPA. EPA must approve or disapprove, in whole or in a part, SIP submissions within 12 months of the SIP submissions being deemed complete.

The proposed consent decree would require the EPA, pursuant to CAA section 110(k)(2)–(4), 42 U.S.C. 7410(k)(2)–(4), to take final action to approve or disapprove, in whole or in part, the portion of 2015 ozone NAAQS SIP submissions addressing the good neighbor provision from the 32 states listed above.

Under the terms of the proposed consent decree, no later than April 30, 2022, EPA shall sign a notice of a final rule to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the 2015 ozone NAAQS interstate transport SIP submissions from Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin. However, under the proposed consent decree, if EPA proposes to disapprove any of these SIP submissions and proposes a 2015 ozone NAAQS interstate transport federal implementation plan for such states by February 28, 2022, then EPA shall take final action on those SIP submissions by December 15, 2022.

In addition, under the terms of the proposed consent decree, no later than April 30, 2022, EPA shall sign a notice of a final rule to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the 2015 ozone NAAQS interstate transport SIP submission from Hawaii. Also, under the terms of the proposed consent decree, no later than December 15, 2022, EPA shall sign a notice of a final rule to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, the 2015 ozone NAAQS interstate transport SIP submissions from Arizona, California, Montana, Nevada, and Wyoming.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2021–0692, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be

received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. 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.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2021–22519 Filed 10–14–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9058–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed October 4, 2021 10 a.m. EST

Through October 8, 2021 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20210151, Final, FERC, PA, Marcus Hook Electric Compression Project, Review Period Ends: 11/15/2021, Contact: Office of External Affairs 866–208–3372.

EIS No. 20210152, Draft Supplement, FHWA, IL, U.S. Route 34—Henderson County, Illinois, Comment Period Ends: 11/29/2021, Contact: Darien Siddall 217–492–4615.

EIS No. 20210153, Draft, USAF, TX, T–7A Recapitalization at Joint Base San Antonio, Texas, Comment Period Ends: 11/29/2021, Contact: Nolan Swick 210–925–3392.

EIS No. 20210154, Final, FERC, LA, Evangeline Pass Expansion Project, Review Period Ends: 11/15/2021, Contact: Office of External Affairs 866–208–3372.

Dated: October 8, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–22501 Filed 10–14–21; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, October 21, 2021, 1:00 p.m. Eastern Time

PLACE: The meeting will be closed to the public. Note: Because of the COVID–19 pandemic, the meeting will be held as a video conference. The public may not observe/listen to the conference.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The following item will be considered at the meeting: Pending Litigation Recommendations and a proposed Subpoena Determination.

Note: The Legal Counsel has certified that, in her opinion, the Commission meeting scheduled for October 21, 2021 (and any portions of any subsequent meetings within the following 30 days to which those same matters may be carried over) concerning pending litigation recommendations and a proposed subpoena determination may properly be closed under the 3rd, 7th, and 10th exemptions to the Government in the Sunshine Act, 5 U.S.C. 552b(c)(3), (7), and (10), and Commission regulations at 29 CFR 1612.4(c), (g), and (j).

In accordance with the Sunshine Act, because this meeting is closed, the public will not be able to observe/listen to the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its website, *www.eeoc.gov,* and provides a recorded announcement a week in advance on future Commission sessions.)

Please telephone (202) 921–2750 (voice) or email *commissionmeetingcomments@eeoc.gov* at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Shelley E. Kahn, Acting Executive Officer, (202) 921–3061.

Date: October 13, 2021.

Shelley E. Kahn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 2021–22679 Filed 10–13–21; 4:15 pm]

BILLING CODE 6570–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, October 14, 2021 at 10:00 a.m.

PLACE: Virtual meeting. Note: Because of the COVID–19 pandemic, we will conduct the open meeting virtually. If you would like to access the meeting, see the instructions below.

STATUS: The October 14, 2021 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2021–22618 Filed 10–13–21; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget (OMB) clearance for information collection

requirements contained in the Red Flags, Card Issuers, and Address Discrepancy Rules (Rules). That clearance expires on December 31, 2021.

DATES: Comments must be received on or before December 14, 2021.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Red Flags, Card Issuers, and Address Discrepancy Rules; PRA Comment: FTC File No. P072108'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Whitney Moore, Attorney, Division of Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–8232, 600 Pennsylvania Ave. NW, Washington, DC 20580, (202) 326–2645.

SUPPLEMENTARY INFORMATION:

Title: Red Flags Rule, 16 CFR 681.1; Card Issuers Rule, 16 CFR 681.2; Address Discrepancy Rule, 16 CFR part 641.

OMB Control Number: 3084–0137.

Type of Review: Extension of currently approved collection.

Estimated Annual Burden: (397,298 hours; $20,103,752 in labor costs).

A. Section 114—Red Flags and Card Issuers Rules:
(1) *Red Flags:*
(a) *Estimated Number of Respondents:* 164,591
(i) *High-Risk Entities:* 99,830 [1]
(ii) *Low-Risk Entities:* 64,761 [2]
(b) *Estimated Hours Burden:*
(i) *High-Risk Entities:* 342,900 hours
(ii) *Low-Risk Entities:* 16,523 hours
(2) *Card Issuers Rule:*
(a) *Estimated Number of Respondents:* 18,894 [3]
(b) *Estimated Hours Burden:* 20,508 hours
(3) *Combined Labor Cost Burden:* $19,756,412
B. Section 315—Address Discrepancy Rule:
(1) *Estimated Number of Respondents:* 44,000
(2) *Estimated Hours Burden:* 17,367 hours
(3) *Estimated Labor Cost Burden:* $347,340
C. Capital/Non-Labor Costs for Sections 114 and 315

FTC staff believes that the Rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies and/or equipment already (*e.g.,* offices and computers) for the information collections described herein.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Commission's Rules.

Overview of the Rules

A. FACT Act Section 114

The FTC Red Flags and Card Issuers Rules implement requirements under Section 114 of the FACT Act (officially the Fair and Accurate Credit Transactions Act of 2003).[4] The Red Flags Rule requires financial institutions and covered creditors to develop and implement a written Program to detect, prevent, and mitigate identity theft in connection with existing accounts or the opening of new accounts. Under the Rule, financial institutions and certain creditors must conduct a periodic risk assessment to determine if they maintain ''covered accounts.'' The Rule defines the term ''covered account'' as either: (1) A consumer account that is designed to permit multiple payments or transactions, or (2) any other account for which there is a reasonably foreseeable risk of identity theft. Each financial institution and covered creditor that has covered accounts must create a written Program that contains reasonable policies and procedures to identify relevant indicators of the possible existence of identity theft (''red flags''); detect red flags that have been incorporated into the Program; respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and update the Program periodically to ensure it reflects change in risks to customers.

The Red Flags Rule also requires financial institutions and covered creditors to: (1) Obtain approval of the initial written Program by the board of directors; a committee thereof; or, if there is no board, an appropriate senior employee; (2) ensure oversight of the development, implementation, and administration of the Program; and (3) exercise appropriate and effective oversight of service provider arrangements.

In addition, the Card Issuers Rule requires that card issuers generally must assess the validity of change of address notifications. Specifically, if the card issuer receives a notice of change of address for an existing account and, within a short period of time (during at least the first 30 days), receives a request for an additional or replacement card for the same account, the issuer must follow reasonable policies and procedures to assess the validity of the change of address.

B. FACT Act Section 315

The Address Discrepancy Rule, which implements section 315 of the FACT Act, requires each user of consumer reports to have reasonable policies and procedures in place to employ when the user receives a notice of address discrepancy from a consumer reporting agency (CRA).[5] Specifically, each user must develop reasonable policies and procedures to: (1) Enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report; and (2) in certain circumstances, provide to the CRA from which it received the notice an address for the consumer that the user has reasonably confirmed is accurate.

[1] High-risk entities include, for example, financial institutions within the FTC's jurisdiction and utilities, motor vehicle dealerships, telecommunications firms, colleges and universities, and hospitals.

[2] Low-risk entities include, for example, public warehouse and storage firms, nursing and residential care facilities, automotive equipment rental and leasing firms, office supplies and stationery stores, fuel dealers, and financial transaction processing firms.

[3] FTC staff estimates that the Rule affects as many as 18,356 card issuers within the FTC's jurisdiction. This includes, for example, state credit unions, general retail merchandise stores, colleges and universities, and telecoms.

[4] The FACT Act added the red flags and card issuer requirements to the Fair Credit Reporting Act, 15 U.S.C. 1681m(e)(1). On December 11, 2018, the Commission initiated periodic review of the Red Flags and Card Issuers Rules. 83 FR 63604. The public comment period closed on February 11, 2019, and the staff is reviewing the comments.

[5] The FACT Act added the address discrepancy requirement to the Fair Credit Reporting Act, 15 U.S.C. 1681c(h). On September 8, 2021, the Commission announced revisions to the Address Discrepancy Rule, but the revisions do not affect the burden to covered entities.

Burden Statement

A. Estimated Annual Hours of Burden

Section 114—(1) Red Flags Rule and (2) Card Issuers Rule

Red Flags Rule

Affected Public: Utilities; motor vehicle dealerships; telecommunications firms; colleges and universities; hospitals; nursing homes; public warehouse and storage firms; fuel dealers; financial transaction processing firms; other persons satisfying the definition of ''creditor,'' as modified by the Red Flags Program Clarification Act of 2010 (the ''Clarification Act''); [6] and other categories of persons that qualify as financial institutions.[7]

Estimated Hours Burden (Red Flags): 359,423 hours.

The Red Flags Rule requires financial institutions and certain creditors with covered accounts to develop and implement a written Program and report to the board of directors, a committee thereof, or senior management at least annually on compliance with the Rule. Under the Rule, a ''financial institution'' is ''a State or National bank, a State or Federal saving and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds a transaction account (as defined in section 19(b) of the Federal Reserve Act, 12 U.S.C. ch. 3) belonging to a consumer.'' [8]

Under the Rule, ''creditor'' has the same meaning as in section 702 of the Equal Credit Opportunity Act (ECOA).[9] The Clarification Act, however, narrows the definition to those creditors that use consumer reports, furnish information to consumer reporting agencies, or advance funds. As a result, many small businesses, service providers, and other persons that would ordinarily satisfy the ECOA definition of ''creditor'' will nonetheless be excluded from the definition of ''creditor'' for purposes of the Red Flags Rule.

Nonetheless, the scope of entities covered by the Red Flags Rule within the FTC's jurisdiction is broad, making it difficult to determine precisely the number of financial institutions and creditors that are subject to the FTC's jurisdiction. There are numerous businesses under the FTC's jurisdiction and there is no formal way to track them; moreover, as a whole, the entities under the FTC's jurisdiction are so varied that there are no general sources that provide a record of their existence. Nonetheless, FTC staff estimates that the Red Flag Rule's requirement to have a written Program affects over 5,666 financial institutions [10] and 157,180 creditors.[11]

To estimate burden hours for the Red Flags Rule under section 114, FTC staff has divided affected entities into two categories, based on the nature of their businesses: (1) Entities that are subject to a high risk of identity theft; [12] and (2) entities that are subject to a low risk of identity theft.[13]

1. High-Risk Entities

FTC staff estimates that on an annual basis, there are around 1,447 new high-risk entities and approximately 98,393 existing high-risk entities.[14] FTC staff estimates that new high-risk entities will each require 25 hours to create and implement a written Program. FTC staff estimates that existing high-risk entities have likely already created and implemented a written Program, but will require an annual recurring burden of one hour. Further, FTC staff estimates that existing entities have already prepared an annual report and will have an annual recurring burden of one hour to update the report for each year, but that preparation of an annual report will require four hours initially for each new high-risk entity. Finally, FTC staff believes that many of the high-risk entities, as part of their usual and customary business practices, already take steps to minimize losses due to fraud, including employee training. Accordingly, only relevant staff need to be trained to implement the Program: For example, staff already trained as part of a covered entity's anti-fraud prevention efforts do not need to be re-trained except as incrementally needed. FTC staff estimates that recurring annual training in connection with the implementation of a Program of an existing high-risk entity will require one hour each year, and for new entities will require four hours initially. Thus, the estimated hours of burden for high-risk entities is as follows:

- 1,447 new high-risk entities subject to the FTC's jurisdiction at an average annual burden of 33 hours per entity [including 25 hours to create and implement the Program, plus four hours for staff training, plus four hours for preparing annual report], for a total of 47,751 hours.
- 98,383 existing high-risk entities subject to the FTC's jurisdiction at an average annual burden of 3 hours per entity [including one hour to update the Program, plus one hour for staff training, plus one hour for preparing the annual report], for a total of 295,149 annual hours.
- In total, 99,830 high-risk entities subject to the FTC's jurisdiction for a total of 342,900 hours.

2. Low-Risk Entities

FTC staff believes that the burden on low-risk entities to comply with the rules is minimal. Entities that have a low risk of identity theft, but that have covered accounts, likely will only need a streamlined Program. FTC staff estimates that any new such entities will require one hour to create such a Program. Existing entities will only have an annual recurring burden of 5 minutes. Training staff of low-risk entities to be attentive to future risks of identity theft and preparing an annual report should require no more than 10 minutes each in an initial year for new entities. Existing entities will only have

[6] The Clarification Act narrowed the Fair Credit Report Act's definition to those creditors that use consumer reports, furnish information to consumer reporting agencies, or advance funds. 15 U.S.C. 1681(e)(4). As a result, many small businesses, service providers, and other persons that would ordinarily satisfy the ECOA definition of ''creditor'' are excluded from the definition of ''creditor'' for purposes of the Red Flags Rule.

[7] We have focused our analysis on the categories described in this notice, but welcome comments on whether there are other categories of creditors or financial institutions that we should be including in the burden analysis.

[8] The Rule refers to the definition of ''financial institution'' that is found in the Fair Credit Reporting Act, 15 U.S.C. 1681a(t).

[9] 15 U.S.C. 1681a(r)(5).

[10] The total number of financial institutions is derived from an analysis of state credit unions and insurers within the FTC's jurisdiction using 2018 Census data (''County Business Patterns,'' U.S.) and other online industry data.

[11] This figure comprises 5,666 financial institutions and 157,180 creditors (92,727 high-risk entities, excluding financial institutions + 64,453 low-risk creditors). The total number of financial institutions draws from FTC staff analysis of state credit unions and insurers within the FTC's jurisdiction using 2018 Census Bureau data (''Statistics of U.S. Businesses'') and other online industry data. The total number of creditors draws from FTC staff analysis of 2018 Census data and industry data for businesses or organizations that market goods and services to consumers or other businesses or organizations subject to the FTC's jurisdiction, reduced by entities not likely to: (1) Obtain credit reports, report credit transactions, or advance loans; and (2) entities not likely to have covered accounts under the Rule. Currently, no further updated Census data is available online to inform revised estimates.

[12] In general, high-risk entities include, for example, financial institutions within the FTC's jurisdiction and utilities, motor vehicle dealerships, telecommunications firms, colleges and universities, and hospitals.

[13] Low-risk entities have a minimal risk of identity theft, but have covered accounts. These include, for example, public warehouse and storage firms, nursing and residential care facilities, automotive equipment rental and leasing firms, office supplies and stationery stores, fuel dealers, and financial transaction processing firms.

[14] This number was derived from the average annual number of existing high-risk entities, taking into account that the new entities from year one will become existing entities in year two and the new entities from year two will become existing entities in year three.

an annual recurring burden of 5 minutes each. Thus, the estimated hours of burden for low-risk entities is as follows:

- 307 new low-risk entities [15] that have covered accounts subject to the FTC's jurisdiction at an average annual burden of approximately 80 minutes per entity [including 60 minutes to create and implement a streamlined Program, plus ten minutes for staff training and ten minutes for preparing the annual report], for a total of 409 hours.
- 64,454 existing low-risk entities [16] that have covered accounts subject to the FTC's jurisdiction at an average annual burden of approximately 15 minutes per entity [including five minutes for updating of streamlined Program, plus five minutes for staff training, and five minutes for preparing annual report], for a total of 16,114 hours.
- In total, 64,761 low-risk entities subject to the FTC's jurisdiction for a total of 16,523 hours.

Card Issuers Rule

Affected Public: State-chartered credit unions; general merchandise stores; colleges and universities; telecommunications firms; and other persons satisfying the definition of ''creditor,'' as modified by the Clarification Act.

Estimated Hours Burden (Card Issuers): 20,508 hours.

The Card Issuers Rule requires credit and debit card issuers to establish policies and procedures to assess the validity of a change of address request, including notifying the cardholder or using another means of assessing the validity of the change of address. FTC staff believes that there may be as many as 18,894 credit or debit card issuers under the FTC's jurisdiction, including state-chartered credit unions, retailers, and certain universities, businesses, and telecommunications companies. FTC staff estimates that on an annual basis, approximately 538 of these card issuers may be new entrants that will need to develop and implement policies and procedures to assess the validity of a change of address request. FTC staff estimates that process will take approximately four hours for a total burden of 2,152 hours. FTC staff estimates that the remaining 18,356 card issuers likely already have automated the process of notifying the cardholder or are using other means to assess the validity of the change of address, such that implementation will pose no further burden. Nevertheless, in order to be conservative, FTC staff estimates that it will take the 18,356 card issuers one hour to review and maintain policies and procedures to assess the validity of a change of address request for a total burden of 18,356 hours. Collectively, the total burden for the 18,894 card issuers is 20,508 hours.

Section 315—Address Discrepancy Rule

Affected Public: Users of consumer reports that are motor vehicle dealers described in section 1029(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), 12 U.S.C. 5519, and that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of them, or both (below, referenced as ''users'').

Estimated Hours Burden:

As discussed above, the Address Discrepancy Rule provides guidance on reasonable policies and procedures that a user of consumer reports must employ when a user receives a notice of address discrepancy from a consumer reporting agency. The FTC Address Discrepancy Rule covers only users of consumer reports that are motor vehicle dealers described in section 1029(a) of the Dodd-Frank Act and that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of them, or both. Assuming that every covered motor vehicle dealer is a user of consumer reports, FTC staff estimates that the Rule affects approximately 44,000 entities. FTC staff also estimates that approximately 2,000 of those motor vehicle dealers may be new entrants who have not previously implemented procedures to comply with this rule.

For the 2,000 new entrants, FTC staff estimates that it would take an infrequent user of consumer reports no more than 16 minutes to develop and follow the policies and procedures that it will employ when it receives a notice of address discrepancy, whereas a frequent user may take one hour. Taking into account these extremes, FTC staff estimates that, during the first year of the clearance, for the 2,000 new entrants, it will take users of consumer reports an average of 38 minutes [the midpoint between 16 minutes and 60 minutes] to develop and comply with the policies and procedures that they will employ when they receive a notice of address discrepancy.

For the 42,000 existing motor vehicle dealers, FTC staff expects that the policies and procedures that they will employ when they receive a notice of address discrepancy will have already been developed. Accordingly, during the three years of the clearance, it may take an infrequent user of consumer reports no more than one minute to comply with the policies and procedures that it will employ when it receives a notice of address discrepancy, whereas a frequent user of consumer reports may take 45 minutes. FTC staff estimates that the average annual burden for the 42,000 existing motor vehicle dealers will be 23 minutes [the midpoint between one minute and 45 minutes].

Thus, for the 2,000 new entrants, the average annual burden for each of them to perform these collective tasks will be 38 minutes; cumulatively, 1,267 hours. For the 42,000 existing motor vehicle dealers, the average annual burden for each of them to perform these collective tasks will be 23 minutes; cumulatively, 16,100 hours. Collectively, the total burden for the 44,000 motor vehicle dealers will be 17,367 hours.[17]

B. Estimated Labor Cost: $20,103,752 ($19,756,412 for Section 114 and $347,340 for Section 315)

Section 114—Red Flags and Card Issuers Rules

FTC staff derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. It is difficult to calculate with precision the labor costs associated with the Rules, as they entail varying compensation levels of management and/or technical staff among companies of different sizes. In calculating the cost figures, staff assumes that entities' professional technical personnel and/or managerial personnel will create and implement the Program, prepare the annual report, train employees, and assess the validity

[15] Estimates of new and existing low-risk entities are derived from an analysis of a database of U.S. businesses based on NAICS codes for businesses that market goods or services to consumers or other businesses within the FTC's jurisdiction, reduced further to: (1) Those that satisfy the Clarification Act's definition of ''creditor'' and (2) those that are likely to have covered accounts.

[16] This number was derived from the average annual number of existing low-risk entities, taking into account that the new entities from year one will become existing entities in year two and the new entities from year two will become existing entities in year three.

[17] The above-noted customer verification requirements and the estimate of 38,207 hours concern 16 CFR 641.1(c). In addition, 16 CFR 641.1(d) requires users that (a) furnish a consumer's address to a consumer reporting agency, and (b) have established a continuing relationship with the consumer, to develop and implement reasonable policies and procedures for furnishing an address for the consumer that the user has reasonably confirmed is accurate. The FTC previously estimated that the cumulative burden hours associated with 16 CFR 641.1(d) would be *de minimis.* Thus, the estimate above concerns solely 16 CFR 641.1(c).

of a change of address request at an hourly rate of $52.[18]

Based on the above estimates and assumptions, the total annual labor costs for all categories of covered entities under the Red Flags and Card Issuers Rules for section 114 is $19,756,412 (379,931 hours × $52).

Section 315—Address Discrepancy Rule

FTC staff assumes that the policies and procedures for compliance with the Address Discrepancy Rule will be set up by administrative support personnel at an hourly rate of $20.[19] Based on the above estimates and assumptions, the total annual labor cost for the two categories of burden under section 315 is $347,340 [(17,367 hours × $20)].

Request for Comments

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of maintaining records and providing disclosures to consumers. All comments must be received on or before December 14, 2021.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before December 14, 2021. Write ''Red Flags, Card Issuers, and Address Discrepancy Rules; PRA Comment: FTC File No. P072108'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Red Flags, Card Issuers, and Address Discrepancy Rules; PRA Comment: FTC File No. P072108'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . . is privileged or confidential''—as provided by Section 6(f) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 14, 2021. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2021–22478 Filed 10–14–21; 8:45 am]

BILLING CODE 6750–01–P

[18] This estimate is based on mean wages (hourly) found at *https://www.bls.gov/news.release/pdf/ocwage.pdf* (''Bureau of Labor Statistics, Occupational Employment and Wages—May 2020,'' March 31, 2021, Table 1, ''National employment and wage data from the Occupational Employment and Wage Statistics survey by occupation, May 2020'') for the various managerial and technical staff support exemplified above (administrative service managers, computer & information systems managers, training & development managers, computer systems analysts, network & computer systems analysts, computer support specialists) (hereinafter ''BLS Table 1'').

[19] This estimate—is based on mean wages (hourly) for office and administrative support occupations found within BLS Table 1 (*see supra* note 17).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3416–PN]

Medicare and Medicaid Programs; Application From the American Association for Accreditation of Ambulatory Surgery Facilities for Continued Approval of Its Rural Health Clinic (RHC) Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed notice.

SUMMARY: This proposed notice acknowledges the receipt of an application from the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) for continued recognition as a national accrediting organization for rural health clinics (RHCs) that wish to participate in the Medicare or Medicaid programs. The statute requires that within 60 days of receipt of an organization's complete application, the Centers for Medicare and Medicaid Services (CMS) publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on November 15, 2021.

ADDRESSES: In commenting, please refer to file code CMS–3416–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.*

Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3416–PN, P.O. Box 8016, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3416–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Shonte Carter, (410) 786–3532.

Lillian Williams, (410) 786–8636.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a rural health clinic (RHC), provided certain requirements are met. Sections 1861(aa) of the Social Security Act (the Act) establish distinct criteria for an entity seeking designation as an RHC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities and other entities are at 42 CFR part 488. The regulations at 42 CFR part 491, subpart A, specify the minimum conditions that an RHC must meet to participate in the Medicare program.

Generally, to enter into a provider agreement with the Medicare program, an RHC must first be certified by a state survey agency as complying with the conditions or requirements set forth in 42 CFR part 491, subpart A of our Medicare regulations. Thereafter, the RHC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements.

However, there is an alternative to surveys by state agencies. Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for CMS approval of their accreditation program under 42 CFR part 488, subpart A must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require accrediting organizations to reapply for continued approval of their accreditation program every 6 years or sooner as determined by CMS.

The American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF's) term of approval for their RHC accreditation program expires March 23, 2022.

II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of AAAASF's request for continued approval for its RHC accreditation program. This notice also solicits public comment on whether AAAASF's requirements meet or exceed the Medicare conditions of participation (CoPs) for RHCs.

III. Evaluation of Deeming Authority Request

AAAASF submitted all the necessary materials to enable us to make a determination concerning its request for continued approval of its RHC accreditation program. This application was determined to be complete on August 25, 2021. Under section 1865(a)(2) of the Act and our regulations at § 488.5 (Application and re-application procedures for national accrediting organizations), our review and evaluation of AAAASF will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of AAAASF's standards for RHCs as compared with CMS' RHC CoPs.
- AAAASF's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of AAAASF's processes to those of state agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited RHCs.

++ AAAASF's processes and procedures for monitoring RHCs found out of compliance with AAAASF's program requirements. These monitoring procedures are used only when AAAASF identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the state survey agency monitors corrections as specified at § 488.9(c).

++ AAAASF's capacity to report deficiencies to the surveyed RHCs and respond to the RHC's plan of correction in a timely manner.

++ AAAASF's capacity to provide us with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of AAAASF's staff and other resources, and its financial viability.

++ AAAASF's capacity to adequately fund required surveys.

++ AAAASF's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ AAAASF's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ AAAASF's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

V. Response to Comments

Because of the large number of public comments, we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice. Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** summarizing our response to comments and announcing the result of our evaluation.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: October 12, 2021.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–22506 Filed 10–14–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10781 and CMS–216–94]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by November 15, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control); *Title of Information Collection:* FOIA/Privacy Act Requests for Medicare Claims Data via CMS FOIA Public Portal; *Use:* This collection of information is dedicated to Medicare beneficiaries and third-party requesters (law firms or others) acting on behalf of beneficiaries that are making requests for CMS to produce Medicare beneficiary records through 5 U.S.C. 552(b) (See also 42 CFR 401.136). Currently the requests are mailed/faxed/emailed to CMS. The new online portal will allow for ease and efficiency to upload the request and required

authorization, which will be quickly and securely sent directly to CMS. Additionally, with the new online portal, requesters will be able to securely submit requests electronically that contain PHI or PII; they will be advised that *MyMedicare.gov/Blue Button* is an online service available for beneficiaries to set up an account to access their own records and give authorization to share with third parties. This secure public online portal will be integrated with the agency's current FOIA/Privacy Act case management system to ensure a centralized location for housing, securing, tracking and processing the incoming requests (See 45 CFR 5.22 and 5.24). *Form Number:* CMS–10781 (OMB control number: 0938–New); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 19,000; *Total Annual Responses:* 360; *Total Annual Hours:* 17,160. (For policy questions regarding this collection contact Hugh Gilmore at 410–786–5352).

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Organ Procurement Organization Histocompatibility Laboratory Cost Report; *Use:* The Form CMS–216–94 cost report is needed to determine Organ Procurement Organization (OPO)/Histocompatibility Lab (HL) reasonable costs incurred in procuring and transporting organs for transplant into Medicare beneficiaries and reimbursement due to or from the provider. The reasonable costs of procuring and transporting organs cannot be determined for the fiscal year until the OPO/HL files its cost report and costs are verified by the Medicare contractor. During the fiscal year, an interim rate is established based on cost report data from the previous year. The OPO/HL bills the transplant hospital for services rendered. The transplant hospital pays interim payments, approximating reasonable cost, to the OPO/HL. The Form CMS–216–94 cost report is filed by each OPO/HL at the end of its fiscal year and there is a cost report settlement to take into account increases or decreases in costs. The cost report reconciliation and settlement take into consideration the difference between the total reasonable costs minus the total interim payments received or receivable from the transplant centers. *Form Number:* CMS–216–94 (OMB Control number: 0938–0102); *Frequency:* Annually; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 95; *Total Annual Responses:* 95; *Total Annual Hours:* 4,275 (For policy questions regarding this collection contact Luann Piccione at 410–786–5423)

Dated: October 12, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–22527 Filed 10–14–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; National Advisory Committee (NAC) Recommendations and State Self-Assessment Survey

AGENCY: Office on Trafficking in Persons, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting an extension to continue use of an existing information collection: The National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (NAC) Recommendations and State Self-Assessment Survey (0970–0560). No changes are proposed.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *OPREinfocollection@acf.hhs.gov.* All emailed requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Preventing Sex Trafficking and Strengthening Families Act of 2014 mandated the NAC to develop a report describing how each state has implemented its recommendations to address sex trafficking in children and youth. The NAC proposed to administer a survey allowing states to assess their progress in implementing NAC recommendations. Submissions allow states to document their efforts in the following sections: Multidisciplinary Response, Screening and Identification, Child Welfare, Service Provision, Housing, Law Enforcement and Prosecution, Judiciary, Demand Reduction, Prevention, Legislation and Regulation, Research and Data, and Funding. Each state will have the opportunity to provide a self-assessed tier ranking for each recommendation, a justification of their assessment, sources for their assessment, and the public or private nature of those sources. The survey was initially launched in March 2021 with a due date in June 2021. We are requesting an extension to allow states ample time to collaborate and compile their responses. There are no changes proposed.

Respondents: State Governors, child welfare agencies, local law enforcement, and other local agencies.

Annual Burden Estimates: Each state is responsible for collaborating with governors, law enforcement agencies, prosecutors, courts, child welfare agencies, and other local agencies and relevant groups to provide their self-assessment of their state's implementation efforts. The opportunity burden is calculated below, assuming five respondents for each state:

TABLE 1—OPPORTUNITY BURDEN

Instrument	Total number of respondents contributing for 50 states	Total number of responses per respondent	Average burden hours per response	Total/annual burden hours
NAC Recommendations and State Self-Assessment Survey	250	1	6.85	1,713

TABLE 1—OPPORTUNITY BURDEN—Continued

Instrument	Total number of respondents contributing for 50 states	Total number of responses per respondent	Average burden hours per response	Total/annual burden hours
Estimated Opportunity Burden Totals				1,713

Estimated Total Annual Opportunity Burden Hours: 1,713.

States also have one designated point of contact responsible for aggregating information and submitting the state response. The recordkeeping burden is calculated below:

TABLE 2—RECORDKEEPING BURDEN

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total/annual burden hours
NAC Recommendations and State Self-Assessment Survey	50	1	40	2,000
Estimated Recordkeeping Burden Totals				2,000

Estimated Total Annual Recordkeeping Burden Hours: 2,000.

Authority: Pub. L. 113–183.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–22479 Filed 10–14–21; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0177]

Proposed Information Collection Activity; Child Support Annual Data Report and Instructions (OCSE–157)

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), is requesting approval for a 3-year extension of the Child Support Annual Data Report and Instructions (OCSE–157) with revisions. The current Office of Management and Budget (OMB) approval expires on March 31, 2022.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Each year, states are required to provide OCSE with child support information pertaining to case inventory, performance status, and accomplishments in the following areas: paternity establishment, services requested and provided, medical support, collections due and distributed, staff, program expenditures, non-cooperation and good cause, and administrative enforcement. The information collected from the Child Support Annual Data Report (OCSE–157) enables OCSE to (1) report child support enforcement activities to Congress as required by law, (2) calculate states' incentive measures for performance and assess performance indicators utilized in the program, and (3) assist OCSE in monitoring and evaluating state child support programs.

Respondents: State and Local Child Support Agencies.

ANNUAL BURDEN ESTIMATES

Collection instrument	Total number of annual respondents	Number of annual responses per respondent	Average annual burden hour per response	Total annual burden hours
OCSE–157 Report and Instructions	54	1	7	378

Estimated Total Annual Burden Hours: 378.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 652(a) and (g), and 669.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–22457 Filed 10–14–21; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #0970–0198]

Proposed Information Collection Activity; Child Care and Development Fund Plan for Tribes for FY 2023–2025 (ACF–118A)

AGENCY: Office of Child Care; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the form ACF–118A: Child Care and Development Fund for Tribes (OMB #0970–0198, expiration 06/30/2022) for FFY 2023–2025. There are changes requested to the form to improve formatting, and clarify and streamline questions. ACF is also requesting public comment on revising the thresholds used to determine tribes with small, medium, and large allocations.

DATES: Comments due within 60 days of publication. In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Child Care and Development Fund (CCDF) Plan (the Plan) for Tribes is required from each CCDF Lead Agency in accordance with section 658E of the Child Care and Development Block Grant Act of 1990 (CCDBG Act), as amended, CCDBG Act of 2014 (Pub. L. 113–186), and 42 U.S.C. 9858. The Plan, submitted on the ACF–118A, is required triennially, and remains in effect for 3 years. The Plan provides ACF and the public with a description of and assurance about the tribes' child care programs. These Plans are the applications for CCDF funds.

ACF is also seeking public comment on whether and how to adjust the thresholds used to determine allocation sizes for Tribal Lead Agencies. We differentiate and exempt some Tribal Lead Agencies from a progressive series of CCDF provisions based on three categories of CCDF grant allocations—large, medium, and small. However, the current thresholds were set based on FFY 2016 allocations. Since then, the amount annually appropriated to Tribal Lead Agencies has increased more than threefold and ACF is considering adjusting the thresholds accordingly.

Respondents: Tribal CCDF lead agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
ACF–118A Part I (for all tribes)	260	1	120	31,200	10,400
ACF–118A Part II (for medium and large tribes only)	106	1	24	2,544	848

Estimated Total Annual Burden Hours: 11,248.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Pub. L. 113–186 and 42 U.S.C. 9858c.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–22456 Filed 10–14–21; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[0970–0543]

Submission for OMB Review; Screening Tool for Unaccompanied Children Program Staff and Visitors

AGENCY: Office of Refugee Resettlement; Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to continue use of a coronavirus (COVID–19) screening tool for unaccompanied children (UC) program staff and visitors at ORR care provider facilities.

DATES: *Comments due within 30 days of publication.* The Office of Management and Budget (OMB) must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. All emailed requests should be identified by the title of the information collection.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The COVID–19 Verbal Screening and Temperature Check tool is verbally administered to all staff and visitors before they are granted access an ORR care provider facility. The tool asks whether the individual displays COVID–19 symptoms, has had close contact with individuals known to test positive for COVID–19, has been tested for COVID–19, has been exposed to someone known or suspected to be infected with COVID–19, or has been tested for COVID–19. The tool also requests a temperature check. The information collected by administering

this screening tool will help ensure the health and safety of children and staff at care provider facilities by helping to identify and reduce potential exposure to COVID–19.

Respondents: Staff and visitors at ORR care provider facilities.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual responses per respondent	Average burden hours per response	Annual burden hours
COVID–19 Verbal Screening and Temperature Check	15,000	260	.033	128,700

Authority: 6 U.S.C. 279.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–22477 Filed 10–14–21; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–1004]

Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing a virtual public meeting entitled ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act (DSCSA).'' This public meeting is intended to provide members of the pharmaceutical distribution supply chain and other interested stakeholders an opportunity to discuss enhanced drug distribution security requirements of the DSCSA related to system attributes necessary to enable secure tracing of product at the package level.

DATES: The public meeting will be held on November 16, 2021, from 9 a.m. to 4 p.m., and will take place virtually. Submit either electronic or written comments on this public meeting by January 18, 2022.

ADDRESSES: The public meeting will be held virtually and hosted by FDA. Registration to participate in this meeting and other information can be found at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-enhanced-drug-distribution-security-package-level-under-drug-supply-chain-security.* See the **SUPPLEMENTARY INFORMATION** section for registration date and other information.

Comments: To permit the widest possible opportunity to obtain public comment, FDA is soliciting either electronic or written comments on all aspects of the public meeting topics. You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Please note that the deadline for submitting either electronic or written comments is 60 days after the meeting, January 18, 2022, to which the comments relate. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of the specified date.

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–2021–N–1004 for ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act; Public Meeting; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), 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.

FOR FURTHER INFORMATION CONTACT: Kristle Green, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–3130, *CDERODSIRPublicMeetings@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On November 27, 2013, the DSCSA (Title II, Pub. L. 113–54) was signed into law. The DSCSA outlines critical steps to build an electronic, interoperable system by 2023 to identify and trace certain prescription drugs as they are distributed within the United States. This system will enhance FDA's ability to protect U.S. consumers from exposure to drugs that may be counterfeit, diverted, stolen, intentionally adulterated, or otherwise harmful by improving the detection and removal of potentially dangerous drugs from the drug supply chain. Section 582(g)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee–1(g)(1)) imposed requirements for the enhanced drug distribution security that go into effect on November 27, 2023. Additionally, section 582(i) of the FD&C Act directs FDA to hold public meetings to enhance the safety and security of the pharmaceutical distribution supply chain and provide opportunities for comment from members of the pharmaceutical distribution supply chain and other interested stakeholders. Section 582(h)(3) of the FD&C Act directs FDA to conduct a public meeting and issue guidance addressing the system attributes necessary to enable secure tracing of product at the package level.

II. Topics for Discussion at the Public Meeting

FDA will hold a virtual public meeting on November 16, 2021, on enhanced drug distribution security at the package level. The purpose of this public meeting is to provide members of the pharmaceutical distribution supply chain and other interested stakeholders an opportunity to provide input to FDA on the implementation of the enhanced drug distribution security provisions of the DSCSA that go into effect in 2023. FDA requests that stakeholders prepare comments responding to the following questions for one or more of the topics listed below:

- How is implementation of the 2023 enhanced system requirements progressing for your organization?
- What challenges are your organization facing?
- Are the proposed recommendations in FDA's draft guidance entitled ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act'' (June 2021) helpful to achieve compliance with 2023 enhanced system requirements? If not, what additional information would be useful?
- Are there areas in which FDA could provide more clarity?

Topics

1. Enhanced Drug Distribution Security
   - System Attributes
   - Aggregation, Inference, and Physical Security Features
2. System Structure
   - Data Architecture
   - Adoption of Data and System Security
   - Protecting Confidential Commercial Information and Trade Secrets
   - System Access and Data Retrieval
3. Enhanced Product Tracing
   - Serialized Transaction Information and Data Exchange (Incorporation of the Product Identifier into Product Tracing Information)
   - Responsibilities of the Selling and Buying Trading Partners in Regard to the Product Tracing Information
   - Handling Aggregation Errors and Other Discrepancies
4. Gathering of Relevant Product Tracing Information
5. Enhanced Verification
   - Verification of Distributed Product
   - Verification of Saleable Return Product
   - Alerts for Illegitimate Product
6. Trading Partner Readiness
   - Your organization's Overall Readiness for Implementation of the Enhanced Drug Distribution Security Provisions of the DSCSA That Go into Effect in 2023
   - Components That Your Organization Is Furthest Along in Developing, Including the Components Being Prioritized and the Components That Are Easier or More Challenging to Implement:

i. Technical Components
ii. Technical Infrastructure
iii. Business Processes
iv. Employee Training

FDA may include additional discussion topics. Materials for the public meeting will be provided on FDA's website at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-enhanced-drug-distribution-security-package-level-under-drug-supply-chain-security* 7 days before the public meeting.

III. Participating in the Public Meeting

Registration: This will be a virtual public meeting and attendance is free. Individuals who wish to attend must register on or before October 26, 2021. To register for the public meeting, provide the following information on the public meeting registration page: Your name, organization name, stakeholder type, email address, and telephone number to FDA at *https://dscsapublicmeeting2021.eventbrite.com.* There will be no onsite or same-day registration. If registration reaches maximum capacity, FDA will post a notice closing registration for the meeting on FDA's website at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-enhanced-drug-distribution-security-package-level-under-drug-supply-chain-security.*

Request for Oral Presentations: This public meeting will include public comment sessions. Individuals who wish to present during a public comment session during this meeting must register as noted at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-enhanced-drug-distribution-security-package-level-under-drug-supply-chain-security* and identify the topics (see section II) they wish to address in their presentation and the stakeholder group they best associate with, if any, to help FDA organize the presentations. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. Presenters should submit an electronic copy of their presentation to *CDERODSIRPublicMeetings@fda.hhs.gov* on or before November 2, 2021.

FDA will do its best to accommodate requests to present during the public

comment session and will determine the amount of time allotted for each oral presentation and the approximate time that each oral presentation is scheduled to begin. FDA will notify registered presenters of their scheduled times and make available an agenda and background material at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-enhanced-drug-distribution-security-package-level-under-drug-supply-chain-security* on or before November 5, 2021.

If you need special accommodations due to a disability, please contact Kristle Green (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the public meeting.

IV. Post-Public Meeting Materials

FDA will provide a recording of the public meeting and materials from the meeting at *https://www.fda.gov/drugs/news-events-human-drugs/public-meeting-enhanced-drug-distribution-security-package-level-under-drug-supply-chain-security* after the public meeting.

Dated: October 8, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–22474 Filed 10–14–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Cybersecurity and Infrastructure Security Agency

[Docket No. CISA–2021–0016]

Notice of President's National Security Telecommunications Advisory Committee Meeting

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: Notice of Federal Advisory Committee Act (FACA) meeting; request for comments.

SUMMARY: CISA is publishing this notice to announce the following President's National Security Telecommunications Advisory Committee (NSTAC) meeting. This meeting will be partially closed to the public.

DATES: *Meeting Registration:* Registration to attend the meeting is required and must be received no later than 5:00 p.m. Eastern Time (ET) on October 26, 2021. For more information on how to participate, please contact *NSTAC@cisa.dhs.gov.*

Speaker Registration: Registration to speak during the meeting's public comment period must be received no later than 5:00 p.m. ET on October 26, 2021.

Written Comments: Written comments must be received no later than 5:00 p.m. ET on October 26, 2021.

Meeting Date: The NSTAC will meet on November 2, 2021, from 10:00 a.m. to 3:15 p.m. ET. The meeting may close early if the committee has completed its business.

ADDRESSES: The November 2021 NSTAC Meeting's open session is set to be held in person at 1717 H Street NW, Washington, DC. Capacity and location are subject to change based on DHS protocol regarding COVID–19 pandemic restrictions at the time of the meeting. Due to pandemic restrictions, members of the public may only participate via teleconference. Requests to participate will be accepted and processed in the order in which they are received. For access to the conference call bridge, information on services for individuals with disabilities, or to request special assistance, please email *NSTAC@cisa.dhs.gov* by 5:00 p.m. ET on October 26, 2021.

Comments: Members of the public are invited to provide comment on issues that will be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated materials that may be discussed during the meeting will be made available for review at *https://www.cisa.gov/nstac* on October 18, 2021. Comments should be submitted by 5:00 p.m. ET on October 26, 2021 and must be identified by Docket Number CISA–2021–0016. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Please follow the instructions for submitting written comments.
- *Email: NSTAC@cisa.dhs.gov.* Include the Docket Number CISA–2021–0016 in the subject line of the email.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the Docket Number for this action. Comments received will be posted without alteration to *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket and comments received by the NSTAC, please go to *www.regulations.gov* and enter docket number CISA–2021–0016.

A public comment period is scheduled to be held during the meeting from 2:40 p.m. to 2:50 p.m. ET. Speakers who wish to participate in the public comment period must email *NSTAC@cisa.dhs.gov* to register. Speakers should limit their comments to 3 minutes and will speak in order of registration. Please note that the public comment period may end before the time indicated, following the last request for comments.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gauthier, 202–821–6620, *NSTAC@cisa.dhs.gov.*

SUPPLEMENTARY INFORMATION: The NSTAC was established by Executive Order (E.O.) 12382, 47 FR 40531 (September 13, 1982), as amended and continued under the authority of E.O. 13889, dated September 27, 2019. Notice of this meeting is given under FACA, 5 U.S.C. Appendix (Pub. L. 92–463). The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications and cybersecurity policy.

Agenda: The NSTAC will meet in an open session on Thursday, November 2, 2021, to discuss current NSTAC activities and the Government's ongoing cybersecurity and NS/EP communications initiatives. This open session will include: (1) A keynote address on fortifying the Nation's cybersecurity posture; (2) an update on Administration actions to NSTAC and joint NS/EP communications; (3) a deliberation and vote on the *NSTAC Report to the President on Software Assurance in the Information and Communications Technology and Services Supply Chain;* and (4) a status update from the NSTAC Zero-Trust and Trusted Identity Management Subcommittee.

The committee will also meet in a closed session from 10:00 a.m. to 12:00 p.m. during which time senior Government intelligence officials will provide a threat briefing concerning threats to NS/EP communications and engage NSTAC members in follow-on discussion.

Basis for Closure: In accordance with section 10(d) of FACA and 5 U.S.C. 552b(c)(9)(B), *The Government in the Sunshine Act,* it has been determined that a portion of the agenda requires closure, as the disclosure of the information that will be discussed would not be in the public interest.

This agenda item is the classified threat briefing and discussion, which will provide NSTAC members the opportunity to discuss information concerning threats to NS/EP communications with senior Government intelligence officials. The briefing is anticipated to be classified at

the top secret/sensitive compartmented information level. Disclosure of these threats during the briefing, as well as vulnerabilities and mitigation techniques, is a risk to the Nation's cybersecurity posture, since adversaries could use this information to compromise commercial and Government networks.

Therefore, this portion of the meeting is required to be closed pursuant to section 10(d) of FACA and 5 U.S.C. 552b(c)(9)(B).

Elizabeth Gauthier,

Alternate Designated Federal Officer, NSTAC, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2021–22500 Filed 10–14–21; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0033]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Report of Medical Examination and Vaccination Record

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment on this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until December 14, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0033 in the body of the letter, the agency name and Docket ID USCIS–2006–0074. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0074.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0074 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will 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 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 Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Report of Medical Examination and Vaccination Record.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–693; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. The information on the Report of Medical Examination and Vaccination Record, Form I–693, will be used by USCIS when considering the eligibility for adjustment of status under 8 CFR 209.1(c), 209.2(d), 210.2(d), 245.5 and 245a.3(d)(4); and for V nonimmigrant status under 8 CFR 214.15(f). The information on the Report of Medical Examination and Vaccination Record, Form I–693, will be used by EOIR in considering the eligibility for immigration benefits in removal proceedings. The information on the Report of Medical Examination and Vaccination Record, Form I–693, may also be used by CBP in determining admissibility at a port of entry.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–693 is 667,000 and the estimated hour burden per response is 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,001,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $329,331,250.

Dated: October 8, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–22486 Filed 10–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0003]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application To Extend/Change Nonimmigrant Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until November 15, 2021.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0038. All submissions received must include the OMB Control Number 1615–0003 in the body of the letter, the agency name and Docket ID USCIS–2007–0038.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on July 28, 2021, at 86 FR 40608, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0038 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will 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 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 Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–539 and I–539A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form will be used for nonimmigrants to apply for an extension of stay, for a change to another nonimmigrant classification, or for obtaining V nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–539 (paper) is 174,289 and the estimated hour burden per response is 2.00 hours, the estimated total number of respondents for the information collection I–539 (electronic) is 74,696 and the estimated hour burden per response is 1.083 hours; and the estimated total number of respondents for the information collection I–539A is 54,375 and the estimated hour burden per response is 0.5 hours; biometrics processing is 186,738 total respondents requiring an estimated 1.17 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 675,145 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $42,700,928.

Dated: October 8, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–22484 Filed 10–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0105]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Notice of Entry of Appearance as Attorney or Accredited Representative

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until November 15, 2021.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0037. All submissions received must include the OMB Control Number 1615–0105 in the body of the letter, the agency name and Docket ID USCIS–2008–0037.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on July 12, 2021, at 86 FR 36569, allowing for a 60-day public comment period. USCIS received two comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0037 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will 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 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 Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Accredited Representative.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–28; G–28I; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. The data collected via the G–28 and G–28I is used by DHS to determine eligibility of the individual to appear as a representative. Form G–28 is used by attorneys admitted to practice in the United States and accredited representatives of certain non-profit organizations recognized by the Department of Justice. Form G–28I is used by attorneys admitted to the practice of law in countries other than the United States and only in matters in DHS offices outside the geographical confines of the United States. If the representative is eligible, the form is filed with the case and the information is entered into DHS systems.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–28 is 3,429,825 and the estimated hour burden per response is 0.833 hours. The estimated total number of respondents for the information collection G–28 online filing is 281,950 and the estimated hour burden per response is 0.667 hours. The estimated total number of respondents for the information collection G–28I is 25,057 and the estimated hour burden per response is 0.700 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,062,645 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. Any costs associated with this collection of information are included in the cost of the primary forms with which Form G–28 (paper or online) or Form G–28I is filed.

Dated: October 8, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–22483 Filed 10–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0045]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition by Entrepreneur To Remove Conditions on Permanent Resident Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until November 15, 2021.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0009. All submissions received must include the OMB Control Number 1615–0045 in the body of the letter, the agency name and Docket ID USCIS–2006–0009.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on July 30, 2021, at 86 FR 41080, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0009 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will 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 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 Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition by Entrepreneur to Remove Conditions on Permanent Resident Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–829; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Business or other for-profit. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove conditions on his or her conditional residence.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–829 is 2,780 and the estimated hour burden per response is 4 hours. The estimated total number of respondents for the information collection of Biometrics is 2,780 and the estimated hour burden per response is 1.17 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 14,373 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is 1,204,368.

Dated: October 8, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–22482 Filed 10–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0038]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition To Remove the Conditions on Residence

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until December 14, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0038 in the body of the letter, the agency name and Docket ID USCIS–2009–0008. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2009–0008.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2009–0008 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will 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 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 Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition to Remove the Conditions on Residence.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–751; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected on Form I–751 is used by U.S. Citizenship and Immigration Services (USCIS) to verify the alien's status and determine whether he or she is eligible to have the conditions on his or her status removed. Form I–751 serves the purpose of standardizing requests for benefits and ensuring that basic information required to assess eligibility is provided by petitioners. USCIS also collects biometric information from the alien to verify their identity and check or update their background information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–751 is 153,000 and the estimated hour burden per response is 4.57 hours; the estimated total number of respondents for the information collection biometrics is 306,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,507,230 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $19,698,750.

Dated: October 8, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–22485 Filed 10–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB 1140–0071]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension With Change of a Currently Approved Collection; Notification to Fire Safety Authority of Storage of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until December 14, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Anita Scheddel, Program Analyst, Firearms and Explosives Industry Division, Explosives Industry Programs Branch, Mailstop 6N–518, either by mail at 99 New York Ave. NE, Washington, DC 20226, or by email at *eipbinformationcollection@atf.gov,* or by telephone at (202) 648–7120.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection* (check justification or form 83): Extension with change of a currently approved collection.

2. *The Title of the Form/Collection:* Notification to Fire Safety Authority of Storage of Explosive Materials.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Individuals or households, Farms, and State, Local or Tribal Government.

Abstract: The Notification to Fire Safety Authority of Storage of Explosive Materials requires both oral and written notifications to local fire safety authority about sites where explosive materials are stored. This collection is necessary to ensure the safety of emergency personnel responding to fires at explosives storage locations.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 653 respondents will respond once to this collection, and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 327 hours, which is equal to 653 (total respondents) * 1 (# of response per respondent) * .5 (30 minutes or the time taken to prepare each response).

7. *An Explanation of the Change in Estimates:* The reduction in total responses and burden hours from 975 and 488 hours in 2018, to 653 and 327 hours respectively, is due to fewer respondents during the current renewal.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3E.405A, Washington, DC 20530.

Dated: October 12, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–22542 Filed 10–14–21; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB 1140–0079]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension With Change of a Currently Approved Collection; Transactions Among Licensee/Permittees and Transactions Among Licensees and Holders of User Permits

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until December 14, 2021.

FOR FURTHER INFORMATION CONTACT: If you have additional comments regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Anita Scheddel, Program Analyst, Firearms and Explosives Industry Division, Explosives Industry Programs Branch, Mailstop 6N–518, either by mail at 99 New York Ave. NE, Washington, DC 20226, or by email at *eipbinformationcollection@atf.gov,* or by telephone at (202) 648–7120.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection* (check justification or form 83): Extension with change of a currently approved collection.

2. *The Title of the Form/Collection:* Transactions Among Licensee/Permittees and Transactions Among Licensees and Holders of User Permits.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Individuals or households OR Farms.

Abstract: The Transactions Among Licensee/Permittees and Transactions Among Licensees and Holders of User Permits requires that all explosives licensee/permittees and holders of user

permits maintain records of all explosives transactions as outlined in 27 CFR 555.103, for compliance with the Safe Explosives Act.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 46,500 respondents will prepare explosives transaction records for this collection once annually, and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 23,250 hours, which is equal to 46,500 (total respondents) * 1 (# of response per respondent) * .5 (30 minutes or the time taken to prepare each response.

7. *An Explanation of the Change in Estimates:* Due to fewer respondents, the total responses and burden hours were reduced from 50,000 and 25,000 hours respectively in 2018, to 46,500 and 23,250 hours currently.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3E.405A, Washington, DC 20530.

Dated: October 12, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–22543 Filed 10–14–21; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the Defense Production Act of 1950

AGENCY: Antitrust Division, Department of Justice.

ACTION: Notice of review of plan of action.

SUMMARY: Notice is hereby given pursuant to section 708 of the Defense Production Act of 1950 (''DPA''), that the Acting Assistant Attorney General finds, with respect to the Plan of Action to Establish a National Strategy for the Coordination of National Multimodal Healthcare Supply Chains to Respond to COVID–19 (''Plan of Action'') proposed by the Federal Emergency Management Agency (''FEMA''), that the purposes of section 708(c)(1) of the DPA may not reasonably be achieved through a plan of action having less anticompetitive effects or without any plan of action. Given this finding, the proposed Plan of Action may become effective following the publication of this notice.

SUPPLEMENTARY INFORMATION: Under the DPA, FEMA may enter into plans with representatives of private industry for the purpose of improving the efficiency with which private firms contribute to the national defense when conditions exist that may pose a direct threat to the national defense or its preparedness. Such arrangements are generally known as ''voluntary agreements.'' Participants in an existing voluntary agreement may adopt documented methods, known as ''plans of action,'' to implement that voluntary agreement. A defense to actions brought under the antitrust laws is available to each participant acting within the scope of a voluntary agreement and plan of action that has come into force under the DPA.

The DPA requires that each proposed plan of action be reviewed by the Attorney General prior to becoming effective. If, after consulting with the Chair of the Federal Trade Commission, the Attorney General finds that the purposes of the DPA's plans of action provision ''may not reasonably be achieved through a . . . plan of action having less anticompetitive effects or without any . . . plan of action,'' the plan of action may become effective. 50 U.S.C. 4558(f)(1)(B). All functions which the Attorney General is required or authorized to perform by section 708 of the DPA have been delegated to the Assistant Attorney General, Antitrust Division. 28 CFR 0.40(l).

On August 17, 2020, the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic (''Voluntary Agreement'') became effective. The proposed Plan of Action contains documented methods to implement the Voluntary Agreement by creating a mechanism to immediately address exigent needs within the National Multimodal Healthcare Supply Chains System and to ensure actions to address such needs do not come with unacceptable risks or interfere with other efforts to meet critical End-User requirements. This mechanism involves the establishment of several Sub-Committees by transportation type, which are designed to foster a close working relationship among FEMA, the Department of Health and Human Services (''HHS''), and participants of the Sub-Committees to address national defense needs through cooperative action under the direction and active supervision of FEMA. The proposed Plan of Action includes terms, conditions, and procedures under which participants agree voluntarily to participate in the Sub-Committees. FEMA has certified that the proposed Plan of Action is necessary to provide for the national defense in the event of a pandemic.

FEMA requested that the Acting Assistant Attorney General, Antitrust Division, issue a finding that the proposed Plan of Action satisfies the statutory criteria set forth in 50 U.S.C. 4558(f)(1)(B). The Acting Assistant Attorney General, Antitrust Division, reviewed the proposed Plan of Action and consulted on it with the Chair of the Federal Trade Commission. On October 12, 2021, by letter to Deanne Criswell, FEMA Administrator, Richard Powers, Acting Assistant Attorney General, Antitrust Division, issued a finding, pursuant to 50 U.S.C. 4558(f)(1)(B), that the purposes of the DPA's plans of action provision ''may not reasonably be achieved through a . . . plan of action having less anticompetitive effects or without any . . . plan of action.''

David G.B. Lawrence,

Chief, Competition Policy & Advocacy Section.

[FR Doc. 2021–22508 Filed 10–14–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0006]

Agency Information Collection Activities; Proposed Collection Comments Requested; Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (EOIR–28)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), 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 December 14, 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

Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289.

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 Executive Office for Immigration Review, 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:* Renewal, with change, of a currently approved collection.

2. *The Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is EOIR–28; the sponsoring component is Executive Office for Immigration Review, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Attorneys and qualified representatives notifying the Immigration Court that they are representing a respondent in immigration proceedings.

Other: None.

Abstract: This information collection is necessary to allow an attorney or representative to notify the Immigration Court that he or she is representing a respondent before the Immigration Court.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 622,689 respondents will complete the form annually with an average of 6 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 6,226,890 hours. It is estimated that respondents will take 6 minutes to complete the form.

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: October 12, 2021.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–22531 Filed 10–14–21; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

U.S. Marshals Service

[OMB Number 1105–0105]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection; Comments Requested: Form CSO–005, Preliminary Background Check Form

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), U.S. Marshals Service (USMS), 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.

DATES: Comments are encouraged and will be accepted for an additional 30 days until November 15, 2021.

FOR FURTHER INFORMATION CONTACT: 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: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension without change of a currently approved collection.

(2) *The Title of the Form/Collection:* Form CSO–005, Preliminary Background Check Form.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: Form CSO–005.

Component: U.S. Marshals Service, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Court Security Officers/Special Security Officer (CSO/SSO) Applicants.

Other: [None].

Abstract: The CSO–005 Preliminary Background Check Form is used to collect applicant information for CSO/SSO positions. The applicant information provided to USMS from the Vendor gives information about which District and Facility the applicant will be working, the applicant's personal information, prior employment verification, employment performance and current financial status. The information allows the selecting official to hire applicants with a strong history of employment performance and financial responsibility. The questions on this form have been developed from

the OPM, MSPB and DOJ ''Best Practice'' guidelines for reference checking.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 750 respondents will utilize the form, and it will take each respondent approximately 60 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 750 hours, which is equal to (750 (total # of annual responses) * 60 minutes.

(7) *An Explanation of the Change in Estimates:* N/A.

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.405A, Washington, DC 20530.

Dated: October 12, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–22526 Filed 10–14–21; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–11963]

Notice of Proposed Exemption Involving J.P. Morgan Securities LLC, J.P. Morgan Investment Management Inc., J.P. Morgan Securities, and Chase Wealth Management (Collectively, the Applicants); Located in Weehawken, New Jersey

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document gives notice of a proposed individual exemption from certain prohibited transaction restrictions of the Internal Revenue Code of 1986, as amended (the Code) involving certain principal trades previously caused or executed by J.P. Morgan Securities LLC and J.P. Morgan Investment Management Inc. for certain non-ERISA plan clients.

DATES: If granted, the exemption will be in effect from December 14, 2010 until September 16, 2013. Written comments and a request for a public hearing on the proposed exemption should be submitted to the Department by January 13, 2022.

ADDRESSES: All written comments and requests for a hearing should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Attention: Application No. D–11963 via email to *e-OED@dol.gov* or online through the Federal eRulemaking Portal: *http://www.regulations.gov.* Any such comments or requests should be sent by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW, Washington, DC 20210. See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Ms. Anna Vaughan of the Department, telephone (202) 693–8565. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: As described in further detail below, J.P. Morgan Securities LLC (JPMS) and J.P. Morgan Investment Management Inc. (JPMIM) previously caused or executed prohibited principal transactions on behalf of certain plans covered by the Employee Retirement Income Security Act of 1974 (ERISA plans) and plans not covered by ERISA (non-ERISA plans). The Applicants corrected the ERISA plan-related prohibited transactions, which were reviewed and confirmed by an independent fiduciary, and received ''no action letters under the Department's Voluntary Fiduciary Compliance Program (the VFC Program).[1]

The VFC Program is not available for corrections of non-ERISA plan-related prohibited transactions; therefore, the Applicants are seeking exemptive relief for their correction of prohibited principal transactions involving the Applicants and their non-ERISA plan clients (the Covered Transactions). The Applicants adhered to the same conditions to correct the Covered Transactions that they applied to correct the transactions involving their ERISA plan clients under the VFC Program.

Comments

In light of the current circumstances surrounding the COVID–19 pandemic caused by the novel coronavirus which may result in disruption to the receipt of comments by U.S. Mail or hand delivery/courier, persons are encouraged to submit all comments electronically and not to submit paper copies. Comments should state the nature of the person's interest in the proposed exemption and the manner in which the person would be adversely affected by the exemption, if granted. Any person who may be adversely affected by an exemption can request a hearing on the exemption. A request for a hearing must state: (1) The name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department will grant a request for a hearing made in accordance with the requirements above where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. A notice of such hearing shall be published by the Department in the **Federal Register**. The Department may decline to hold a hearing if: (1) The request for the hearing does not meet the requirements above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form. *Warning:* All comments received will be included in the public record without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the *http://www.regulations.gov* website is an ''anonymous access'' system, which means EBSA will not know your identity or contact information unless

[1] See 67 FR 15062 (Mar. 28, 2002), as updated at 71 FR 20262 (Apr. 19, 2006).

you provide it in the body of your comment. If you send an email directly to EBSA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the internet.

Background

This document contains a notice of proposed exemption that, if granted, would provide exemptive relief from the sanctions resulting from the application of Code Section 4975, by reason of Code Section 4975(c)(1)(A) and (D)–(E). The proposed exemption has been requested by JPMS and its affiliates pursuant to Code Section 4975(c)(2) in accordance with the Department's prohibited transaction exemption procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011). Effective December 31, 1978, Section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App 1 (1996) transferred the authority of the Secretary of the Treasury to issue administrative exemptions under Code Section 4975(c)(2) to the Secretary of Labor. Accordingly, this notice of proposed exemption is being issued solely by the Department.

Summary of Facts and Representations [2]

1. JPMorgan Chase & Co. (JPMorgan) is a global financial services firm that provides investment banking, financial services for consumers and small businesses, commercial banking, financial transaction processing and asset management.

2. JPMS, an indirect wholly-owned subsidiary of JPMorgan, is a broker-dealer registered with the U.S. Securities and Exchange Commission (the SEC) and supervised by the Financial Industry Regulatory Authority, Inc. In addition, JPMS is an investment advisor regulated by the SEC as a ''dual registrant.'' JPMS serves as an investment advisor under investment advisory programs offered by its retail brokerage lines of business, including the J.P. Morgan Securities division of JPMS (JPMS Brokerage). JPMS Brokerage serves as an investment adviser to ERISA-covered plans (the ERISA Plan Clients) and accounts and plans subject to Code Section 4975 that are not covered by ERISA (the Non-ERISA Plan Clients). JPMS' ERISA and Non-ERISA Plan Clients participate in certain JPMS-sponsored wrap fee programs under the Chase Wealth Management (CWM) line of business (the CWM Wrap Program). Clients of these programs generally pay a bundled fee to the program sponsor and receive custody, trade execution, investment management, and other services.

3. JPMIM, an indirect wholly-owned subsidiary of JPMorgan, is an investment advisor registered with the SEC. JPMIM serves as an investment adviser for ERISA and Non-ERISA Plan Clients participating in the CWM Wrap Program. During the time period relevant to this proposed exemption, JPMIM was the overlay manager for one program and one of the offered portfolio managers of another program.

Covered Transactions Involving JPMIM

4. According to the Applicants, a JPMorgan employee conducted a routine monitoring of accounts in early July 2012, and noticed that a particular account number was not enabled to trade on JPM–X, an ''alternative trading system'' owned and operated by JPMS. According to the Applicants, the employee did not recognize the account was associated with JPMIM or an affiliate. Instead, the employee had seen documentation indicating that the account was associated with a non-affiliated third party. On July 27, 2012, the employee authorized the account for activation in JPM–X, including engaging in principal trading.

The Applicants state that, on July 30, 2012, the head of the Electronic Client Services (ECS) group noticed the JPM–X trading flow associated with the recently-activated account number had an account name that included a ''jpmim'' prefix. Based on that information, the head of the ECS group immediately de-activated the account for principal trading in JPM–X. The principal trades executed for the CWM Wrap Program were discovered a few months later in connection with a routine exam of JPMS by the SEC (the SEC Exam of JPMS). In total, 3,989 trades of securities issued by third-parties were executed for the CWM Wrap Program on a principal basis. Regarding these trades: (a) 3,985 were sales by a Non-ERISA Plan Client to a counterparty affiliated with JPMorgan (a JPM Counterparty), with an aggregate sales price of $2,682,332.34 (the JPMIM Sales Transactions); [3] and (b) four were purchases by a Non-ERISA Plan Client from a JPM Counterparty (the JPMIM Purchase Transactions) with an aggregate purchase price of $46,940.55. The purchased shares had not been re-sold by the Non-ERISA Plan Client as of the date the transactions were corrected.[4] The Applicants represent that JPMIM and JPMS endeavored to correct the prohibited transactions as quickly as possible in the manner described in paragraph 11 below.

5. The Applicants represent that the trades did not result in any commissions being paid by the Non-ERISA Plan Clients to JPMIM or its affiliates. Rather, because the trades were executed under the CWM Wrap Program, no identifiable transaction compensation was paid in connection with either the JPMIM Sales Transactions or the JPMIM Purchase Transactions. The Applicants represent that JPMIM is no longer enabled to execute trades on JPM–X.

Covered Transactions Involving JPMS Brokerage

6. According to the Applicants, on December 14, 2010, January 13, 2011, February 3, 2012, December 31, 2012, August 22, 2013 and September 16, 2013, 15 trades involving JPMS Brokerage were mistakenly executed on a principal basis, although not on JPM–X. The Applicants state that JPMS Brokerage's compliance department discovered the Covered Transactions in connection with the SEC Exam of JPMS. Of the 15 trades: (a) Two were sales of securities,[5] where each sale was by a Non-ERISA Plan Client to a JPM Counterparty (the JPMS Brokerage Sales Transactions), with an aggregate sales price of $61,854.54; and (b) 13 were purchases of securities by a Non-ERISA Plan Client from a JPM Counterparty (the JPMS Brokerage Purchase Transactions), with an aggregate purchase price of $557,232.08.[6] The purchased securities were subsequently sold by the Non-ERISA Plan Client before the prohibited transactions were discovered. The Applicants state that JPMS Brokerage endeavored to correct the prohibited transactions as quickly as possible in the manner described in paragraph 11 below.

7. The Applicants represent that the trades in question did not result in any

[2] The Department notes that the availability of this exemption, if granted, is subject to the express condition that the material facts and representations contained in application D–11963 are true and complete, and accurately describe all material terms of the transactions covered by the exemption. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described in the application, the exemption will cease to apply as of the date of the change.

[3] These trades involved 3,784 Non-ERISA Plan Clients.

[4] These trades involved two Non-ERISA Plan Clients.

[5] These trades involved two Non-ERISA Plan Clients.

[6] These trades involved seven Non-ERISA Plan Clients.

commissions being paid by the Non-ERISA Plan Clients to JPMS or its affiliates. Rather, the trades were executed under the CWM Wrap Program. Further, no identifiable transaction compensation was paid in connection with either the JPMS Brokerage Sales Transactions or the JPMS Brokerage Purchase Transactions.

Other Prohibited Transactions, as Corrected Under the VFC Program

8. The Applicants represent that the errors and mistakes that gave rise to prohibited transactions involving the Non-ERISA Plan Clients also gave rise to prohibited transactions involving certain ERISA Plan clients of JPMIM and JPMS (the ERISA Plan Prohibited Transactions). The Applicants state that JPMIM and JPMS Brokerage corrected the ERISA Plan Prohibited Transactions pursuant to the requirements set forth in the VFC Program.[7] The Applicants represents that they did not intend to engage in the prohibited transactions and have implemented policies and procedures to prevent future occurrences of such (or similar) transactions.

JPMIM and JPMS filed VFC Program Applications 30–105378 and 30–105379, respectively, on December 31, 2014, and filed a supplement to those applications on July 1, 2015 (collectively, the VFC Program Applications). The Applicants received ''no action'' letters from the Department dated September 14, 2015, in connection with their VFC Program Applications for the ERISA Plan Prohibited Transactions.[8]

9. The Applicants state that although the Non-ERISA Plan Prohibited Transactions were entered into under similar circumstances as the ERISA Plan Prohibited Transactions (and in some cases pursuant to the same block trade) and corrected using the same methodology used to correct the ERISA Plan Prohibited Transactions, the Non-ERISA Plan Prohibited Transactions are ineligible for relief under the VFC Program and PTE 2002–51, as amended, because they involved transactions with Non-ERISA Plan Clients that are not covered under Title I of ERISA.[9]

Prohibited Transaction Analysis

10. Absent an exemption, the Covered Transactions violated several prohibited transaction provisions, because JPMS or JPMIM caused Covered Transactions to occur that resulted in JPMS or JPMIM receiving money or securities from the Non-ERISA Plan Client. Specifically, the Covered Transactions constitute: (a) A sale or exchange of property (*i.e.,* money or securities) between a Non-ERISA Plan Client and a JPM Counterparty (a disqualified person) prohibited by Code Section 4975(c)(1)(A); (b) a transfer of plan assets (*i.e.,* money or securities) from the Non-ERISA Plan Client to a JPM Counterparty (a disqualified person) prohibited by Code Section 4975(c)(1)(D); and (c) an act undertaken by JPMS or JPMIM to deal with plan assets in its own interest or for its own account prohibited by Code Section 4975(c)(1)(E).

Covered Transaction Corrections

11. The Applicants represent that the Covered Transactions were corrected using the same applicable methodologies described in the VFC Program that they used to correct similar prohibited transactions that occurred with their ERISA clients. The Applicants engaged an independent fiduciary, Evercore Trust Company, N.A. (Evercore),[10] to determine: Whether the correction methodologies were properly applied, including verifying the market value of the securities at the time the prohibited transactions occurred; and whether the correction methodologies provided the Non-ERISA Plan Clients with a greater benefit than other correction methodology alternatives consistent with the VFC Program.[11]

In a written report dated August 28, 2017, Evercore stated that it reviewed the correction methodology alternatives outlined in the VFC Program and considered the specific facts and circumstances related to the Covered Transactions. Based on the foregoing, Evercore determined that the correction methodologies utilized to correct the transactions: (a) Were sufficient to return each affected Non-ERISA Plan Client to at least the position it would have been in had the Covered Transaction not occurred; (b) provided Non-ERISA Plan Clients with a greater benefit than other correction methodology alternatives, consistent with the VFC Program; and (c) were properly applied based on a review of a representative sample of the corrections selected at random by Evercore.

12. The Applicants describe the specific correction methodologies as follows:

(a) With respect to JPMIM Sales Transactions involving securities that had not been repurchased by the Non-ERISA Plan Clients, the corrections were calculated based on Section 7.4(b)(2)(ii) of the VFC Program, which permits monetary correction if an independent fiduciary determines the plan will receive a greater benefit than it would from rescission. The correction formula used was the sum of: (i) The excess, if any, of the fair market value of the shares on the correction date over the shares' original sale price; plus (ii) any transaction costs paid by the Non-ERISA Plan Client in the original transaction; plus (iii) lost earnings on the amounts described in (i) and (ii) calculated from the original sale date to the correction date.[12]

[7] The Department notes that the VFC Program encourages the full correction of certain breaches of fiduciary responsibility and the restoration to participants and beneficiaries of losses resulting from those breaches. Persons potentially liable for certain types of ERISA fiduciary breaches may avoid certain civil action and penalties by fulfilling the Program's requirements. Several categories of transactions covered by the VFC Program also qualify for excise tax relief under class exemption 2002–51, if the conditions therein are met. See 67 FR 70623 (Nov. 25, 2002) as amended at 71 FR 20135 (Apr. 19 2006).

[8] In general terms, the Department may issue a ''no action'' letter to an applicant under the VFC Program, with respect to the breach identified in the application, if the applicable requirements of the VFC Program are satisfied.

[9] In granting an amendment to PTE 2002–51, and in response to a comment to the proposed amendment, the Department noted, ''the grant of this amendment does not foreclose [the Department's] future consideration of individual exemption requests for transactions that are outside the scope of relief provided by both the VFC Program and the class exemption under circumstances when, for example a financial institution received a no action letter applicable only to plans subject to the Program for a transaction(s) that involved both plans and such IRAs.'' See 71 FR 20135 at 37.

[10] This proposed exemption requires, among other things, that there were no contractual provisions purporting to entitle Evercore, in whole or in part, to indemnification by the Applicants, or by a party related to the Applicants, for negligence or breach of federal or state law responsibilities by Evercore, with respect to any task performed by Evercore pursuant to the Applicants' exemption request.

[11] Evercore sold its institutional trust and independent fiduciary business to Newport Group Inc. and its subsidiary, Newport Trust Company (NTC). Since October 19, 2017, NTC has served as the independent fiduciary in connection with this proposed exemption. The Department understands that the non-indemnification (for negligence) provision in Evercore's engagement letter applies to NTC, because NTC became the successor of Evercore as a result of the acquisition.

[12] The Applicants represent that the lost earnings were calculated in accordance with Section 5(b)(5) of the VFC Program. The Department notes that, in general terms, the amount of ''lost earnings'' calculable under Section 5(b)(5) approximates the amount that would have been earned by the affected plan on the ''Principal Amount,'' but for the breach. The Applicants state that to ensure that the affected Non-ERISA Plan Clients (who had sold shares to JPM Counterparties) would receive the greatest benefit through the correction process, if the fair market value of the shares on the correction date was greater than the original sale price of the shares, that excess amount was paid to the Non-ERISA Plan Client. The Applicants state that

(b) With respect to the JPMIM Purchase Transactions where the Non-ERISA Plan Clients continued to hold the purchased securities prior to the date of correction, the correction amount was calculated based on Section 7.4(a)(2)(i) of the VFC Program. Under this correction procedure, the Non-ERISA Plan Clients were entitled to sell the securities for a price equal to the greater of: The fair market value of the shares on the correction date; or the sum of: (i) The original purchase price; plus (ii) any transaction costs (*e.g.,* commissions) paid by the Non-ERISA Plan Clients in the original purchase; plus (iii) lost earnings on the items (i) and (ii) from the original purchase date to the correction date.

(c) With respect to the JPMS Brokerage Sales Transactions, the methodology used was the same methodology that was used for the JPMIM Sales Transactions.

(d) With respect to the JPMS Brokerage Purchase Transactions for which the Non-ERISA Plan Clients subsequently sold the purchased securities before the correction date, the correction amount was calculated based on Section 7.4(a)(2)(i) of the VFC Program.[13] Under that methodology, the correction amount was determined by applying the following calculation: (i) The excess, if any, of *A* over *B (described below),* plus (ii) lost earnings on such excess calculated from the prior resale date to the correction date. For purposes of this calculation, *A* is the greater of: (i) The fair market value of the shares at the time of resale; and (ii) the original purchase price plus any transaction costs paid by the client in the original purchase, plus any lost earnings on the original purchase price and transaction costs calculated from the original purchase date to the resale date, and *B* is the price received for the shares when they were resold, less any transaction costs paid by the client in the resale.

13. The Applicants represent that the Covered Transactions were inadvertent and that all of the Covered Transactions were executed at fair market value and achieved best execution. In this regard, the Covered Transactions were conducted using trading systems and procedures designed to result in the trades being conducted at prices that were as favorable as possible to the Non-ERISA Plan Clients under prevailing market conditions, and were in fact conducted at prices no less favorable to the Non-ERISA Plan Clients than the prices the financial advisers could have obtained for the Non-ERISA Plan Clients by conducting trades in arm's-length transactions with third-party market participants. In addition, the Applicants state that there were no identifiable profits to the JPM Counterparties in any of the Covered Transactions, because all of the securities traded were liquid securities that JPMorgan and its affiliates regularly hold in inventory, deal in, or make a market in.

14. The Applicants represent that they have not taken advantage of the relief provided by the VFC Program and PTE 2002–51 for the three (3) years before the date of the Applicants' submission of the VFC Program Applications, and that the Covered Transactions were not part of an agreement, arrangement or understanding designed to benefit a disqualified person.

15. Based on the foregoing, as required by ERISA Section 408(a), the Department has tentatively determined that the proposed exemption is:

(a) Administratively feasible because, among other things, the corrections were performed in a manner consistent with the VFC Program and verified by Evercore, an independent fiduciary acting on behalf of the non-ERISA Plan Clients;

(b) In the interests of the affected Non-ERISA Plan Clients and their owners and beneficiaries because, among other things, the Non-ERISA Plan Clients were put in at least as favorable a position as they would have been had the Covered Transaction not occurred; and

(c) Protective of the rights of the owners and beneficiaries of the Non-ERISA Plan Clients because, among other things, the Covered Transactions have been effectively unwound consistent with the requirements set forth in the VFC Program.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons within 60 days of the publication of the notice of proposed exemption in the **Federal Register**. The notice will be provided to all interested persons in the manner agreed upon by the Applicants and the Department and will contain a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(a)(2). The supplemental statement will inform interested persons of their right to comment on and to request a hearing with respect to the pending exemption. All written comments and/or requests for a hearing must be received by the Department within 90 days of the date of publication of this proposed exemption in the **Federal Register**.

All comments will be made available to the public. *Warning:* If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as a Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the internet and can be retrieved by most internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA Section 408(a) and/or Code Section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA Section 404, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA Section 404(a)(1)(b); nor does it affect the requirement of Code Section 401(a)that requires plans to operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under ERISA Section 408(a) and/or Code Section 4975(c)(2), the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of

technically, under the VFC Program rules, JPMorgan was not required to pay lost earnings on the excess amount, but to ensure that the affected Non-ERISA Plan Clients would receive the greatest benefit, JPMorgan determined that it was appropriate to pay lost earnings on the excess amount.

[13] Securities purchased in a prohibited transaction were matched to securities of the same type subsequently sold on a last-in-first-out basis.

whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of Code Section 4975(c)(2) and in accordance with the Department's prohibited transaction exemption procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, October 27, 2011), as follows:

Section I: Covered Transactions

If the proposed exemption is granted, the sanctions resulting from the application of Code Section 4975, by reason of Code Section 4975(c)(1)(A), (D) and (E), shall not apply, effective December 14, 2010, until September 16, 2013, to certain principal trades involving J.P. Morgan Securities LLC (JPMS), J.P. Morgan Investment Management Inc. (JPMIM), J.P. Morgan Securities (JPMS Brokerage), and Chase Wealth Management (CWM) (collectively, the Applicants), and certain of their client plans that are subject to Code Section 4975 but covered by not Title I of ERISA (the Non-ERISA Plan Clients). These principal transactions resulted in the Non-ERISA Plan Clients purchasing or selling securities from or to the Applicants (the Covered Transactions, as defined in Section II, below).

This exemption is subject to the conditions set forth below in Sections III and IV.

Section II: Definition of Covered Transaction

For purposes of this proposed exemption, the term ''Covered Transaction'' means:

(a) 3,989 trades of securities issued by third-parties that were executed on a principal basis for certain JPMS-sponsored wrap fee programs under the Chase Wealth Management line of business (*i.e.,* the CWM Wrap Program) on or about July 27 and July 30, 2012. Of these trades: (i) 3,985 involved sales by a Non-ERISA Plan Client to a counterparty affiliated with JPMorgan (a JPM Counterparty), with an aggregate sales price of $2,682,332.34 (*i.e.,* the JPMIM Sales Transactions); and (ii) four involved purchases by a Non-ERISA Plan Client from a JPM Counterparty (*i.e.* the JPMIM Purchase Transactions) and the purchased shares, with an aggregate purchase price of $46,940.55, had not been re-sold by the Non-ERISA Plan Client as of the date the transactions were corrected; and

(b) 15 trades involving JPMS Brokerage that were executed on a principal basis on December 14, 2010, January 13, 2011, February 3, 2012, December 31, 2012, August 22, 2013 and September 16, 2013. Of these trades: (a) Two involved sales of securities by a Non-ERISA Plan Client to a JPM Counterparty (*i.e.,* the JPMS Brokerage Sales Transactions), with an aggregate sales price of $61,854.54; and (b) 13 involved purchases of securities by a Non-ERISA Plan Client from a JPM Counterparty (*i.e.,* the JPMS Brokerage Purchase Transactions), with an aggregate purchase price of $557,232.08, that were purchased and subsequently sold by the Non-ERISA Plan Client before the prohibited transactions were discovered.

Section III: Specific Conditions

(a) The Applicants corrected the Covered Transactions in a manner that was: (1) Consistent with the relevant requirements set forth in the Department's Voluntary Fiduciary Correction Program (the VFC Program); and (2) consistent with the Applicants' corrections of similar prohibited transactions involving its ERISA plan clients, as described in their VFC Program applications, dated December 31, 2014 (the VFC Program Applications);

(b) The Applicants received ''no action letters'' from the Department in connection with their VFC Program Applications;

(c) An independent fiduciary, Evercore Trust Company, N.A. (Evercore), reviewed the Applicants' corrections of the Covered Transactions;

(d) Evercore confirmed that the methods utilized to correct the Covered Transactions were properly applied to the Covered Transactions and sufficient to return each affected Non-ERISA Plan Client to at least the same position it would have been in had the Covered Transactions not occurred.

(e) The Non-ERISA Plan Clients did not pay any identifiable transaction costs with respect to the Covered Transactions;

(f) The Applicants promptly credited or issued a check to each Non-ERISA Plan Client to whom a corrective payment was due after discovering the Covered Transactions;

(g) The Covered Transactions were conducted using trading systems and procedures designed to result in trades being conducted at prices that are as favorable as possible to the Non-ERISA Plan Clients under prevailing market conditions, and were in fact conducted at terms and prices no less favorable to the Non-ERISA Plan Clients than the prices the financial advisers could have obtained for the Non-ERISA Plan Clients by conducting trades in arm's-length transactions with third-party market participants;

(h) The Covered Transactions were not part of an agreement, arrangement or understanding designed to benefit a disqualified person, as defined in Code Section 4975(e)(2);

(i) The Applicants did not take advantage of the relief provided by the VFC Program and Prohibited Transaction Exemption 2002–51 for three (3) years prior to the date of the Applicants' submission of the VFC Program Applications; [14]

(j) The Applicants and their affiliates did not receive any identifiable direct or indirect compensation in connection with the Covered Transactions;

(k) The JPM Counterparties to the Non-ERISA Plan Clients did not receive any identifiable direct or indirect profit from the Covered Transactions;

(l) The Covered Transactions were inadvertent, executed at fair market value, and achieved best execution;

(m) All of the securities traded were liquid securities that JPMorgan and its affiliates regularly held in inventory, dealt in, or made a market in; and

(n) No contractual provisions purported to give Evercore or Newport Trust Company (*i.e.,* NTC) a right to indemnification, in whole or part, by a party related to the Applicants, for negligence or breach of federal or state law responsibilities by Evercore or NTC, with respect to any task performed by Evercore or NTC pursuant to the Applicants' exemption request.

(o) All of the facts and representations set forth in the Summary of Facts and Representations are true and accurate.

Section IV: General Conditions

(a) The Applicants maintain, or cause to be maintained, for a period of six (6) years from the date of any Covered Transaction such records as are necessary to enable the persons described in Section IV(b)(1) to determine whether the conditions of this exemption have been met, except that:

(1) A separate prohibited transaction shall not be considered to have occurred if the records are lost or destroyed

[14] 67 FR 70623 (Nov. 25, 2002), as amended, 71 FR 20135 (April 19, 2006).

before the end of the six-year period due to circumstances beyond the control of Applicants; and

(2) No disqualified person with respect to a Non-ERISA Plan Client, other than the Applicants, shall be subject to excise taxes imposed by Code Section 4975 if such records are not maintained or made available for examination as required by Section IV(b)(1), above.

(b)(1) Except as provided in Section IV(b)(2), the records referred to in Section IV(a) are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission;

(B) Any fiduciary of any Non-ERISA Plan Client that engaged in a Covered Transaction, or any duly authorized employee or representative of such fiduciary; or

(C) Any owner or beneficiary of a Non-ERISA Plan Client that engaged in a Covered Transaction or a representative of such owner or beneficiary.

(2) None of the persons described in Sections IV(b)(1)(B) and (C) shall be authorized to examine the Applicants' trade secrets or privileged or confidential commercial and financial information.

(3) If the Applicants refuse to disclose records referred to in Section IV(a) to any persons described in Sections IV(b)(1)(B), and (C) on the basis that such information is exempt from disclosure, the Applicants shall provide a written notice advising such persons of the reasons for the refusal and that the Department may request such information by the close of the thirtieth (30th) day following their request.

Effective Date: The proposed exemption, if granted, will be in effect from December 14, 2010 until September 16, 2013.

Signed at Washington, DC, this 27th day of September, 2021.

G. Christopher Cosby,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2021–21578 Filed 10–14–21; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Mine Mapping and Records of Opening, Closing, and Reopening of Mines

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 15, 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: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456 or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection protects miners by assuring that up-to-date, accurate mine maps contain the information needed to clarify the best alternatives for action during an emergency operation. Also, coal mine operators routinely use maps to create safe and effective development plans.

Mine maps are schematic depictions of critical mine infrastructure, such as water, power, transportation, ventilation, and communication systems. Using accurate, up-to-date maps during a disaster, mine emergency personnel can locate refuges for miners and identify sites of explosion potential; they can know where stationary equipment was placed, where ground was secured, and where they can best begin a rescue operation. During a disaster, maps can be crucial to the safety of the emergency personnel who must enter a mine to begin a search for survivors. Mine maps may describe the current status of an operating mine or provide crucial information about a long-closed mine that is being reopened.

Coal mine operators use map information to develop safe and effective plans and to help determine hazards before beginning work in areas, such as abandoned underground mines or the worked-out and inaccessible areas of an active underground or surface mine. Abandoned mines or inaccessible areas of active mines may have water inundation potentials and explosive levels of methane or lethal gases. If an operator, unaware of the hazards, were to mine into such an area, miners could be killed or seriously injured. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 21, 2021 (86 FR 38504).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–MSHA.

Title of Collection: Mine Mapping and Records of Opening, Closing, and Reopening of Mines.

OMB Control Number: 1219–0120.

Affected Public: Private Sector: Businesses or other for-profits.

Total Estimated Number of Respondents: 580.

Total Estimated Number of Responses: 1,191.

Total Estimated Annual Time Burden: 6,274 hours.

Total Estimated Annual Other Costs Burden: $3,204,898.

Authority: 44 U.S.C. 3507(a)(1)(D).

Crystal Rennie,

Senior PRA Analyst.

[FR Doc. 2021–22488 Filed 10–14–21; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs.

ACTION: Announcement of meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The Advisory Board will meet November 8–9, 2021, via teleconference, from 1:00 p.m. to 5:00 p.m. Eastern time on each day. Submission of comments, requests to speak, and materials for the record: You must submit comments, materials, and requests to speak at the Advisory Board meeting by November 1, 2021, identified by the Advisory Board name and the meeting date of November 8–9, 2021, by any of the following methods:

• *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, for example ''Request to Speak: Advisory Board on Toxic Substances and Worker Health'').

• *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW, Washington, DC 20210.

Instructions: Your submissions must include the Agency name (OWCP), the committee name (the Advisory Board), and the meeting date (November 8–9, 2021). Due to security-related procedures, receipt of submissions by regular mail may experience significant delays. For additional information about submissions, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OWCP will make available publicly, without change, any comments, requests to speak, and speaker presentations, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Laura McGinnis, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW, Washington, DC 20210; telephone (202) 693–4672; email *Mcginnis.Laura@DOL.GOV.*

SUPPLEMENTARY INFORMATION: The Advisory Board will meet via teleconference: Monday, November 8, 2021, from 1:00 p.m. to 5:00 p.m. Eastern time; and Tuesday, November 9, 2021, from 1:00 p.m. to 5:00 p.m. Eastern time. The teleconference number and other details for participating remotely will be posted on the Advisory Board's website, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* 72 hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

Public comment session: Monday, November 8, 2021, from 4:15 p.m. to 5:00 p.m. Eastern time. Please note that the public comment session ends at the time indicated or following the last call for comments, whichever is earlier. Members of the public who wish to provide public comments should plan to call in to the public comment session at the start time listed.

The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency; (5) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and (6) such other matters as the Secretary considers appropriate. The Advisory Board sunsets on December 19, 2024.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- Review and follow-up on Advisory Board's previous recommendations, data requests, and action items;
- Discussion of resources requested;
- Discussions by Advisory Board working groups;
- Review of public comments;
- Review of Board tasks, structure and work agenda;
- Consideration of any new issues; and
- Public comments.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP posts the transcripts and minutes on the Advisory Board web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions and Access to Public Record

Advisory Board meetings: All Advisory Board meetings are open to the public. Information on how to participate in the meeting remotely will be posted on the Advisory Board's website.

Submission of comments: You may submit comments using one of the methods listed in the **SUMMARY** section. Your submission must include the Agency name (OWCP) and date for this Advisory Board meeting (November 8–9, 2021). OWCP will post your comments on the Advisory Board website and provide your submissions to Advisory Board members.

Because of security-related procedures, receipt of submissions by regular mail may experience significant delays.

Requests to speak and speaker presentations: If you want to address the Advisory Board at the meeting you must submit a request to speak, as well as any written or electronic presentation, by November 1, 2021, using one of the methods listed in the **SUMMARY** section. Your request may include:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of the presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats. The Advisory Board Chair may grant requests to address the Board as time and circumstances permit.

Electronic copies of this **Federal Register** notice are available at *http://*

www.regulations.gov. This notice, as well as news releases and other relevant information, are also available on the Advisory Board's web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

For further information regarding this meeting, you may contact Michael Chance, Designated Federal Officer, at *chance.michael@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW, Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, this 8th day of October, 2021.

Christopher Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2021–22489 Filed 10–14–21; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for Emergency/Expedited OMB Review, Comment Request, Proposed Collection: Communities for Immunity Program Evaluation

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Submission for emergency/expedited OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces that the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. This Notice proposes the emergency/expedited clearance to administer surveys to Communities for Immunity Program project leaders and participants in funded activities and to conduct interviews with a subset of project leaders and participants. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 15, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Institute of Museum and Library Services'' under ''Currently Under Review;'' then check ''Only Show ICR for Public Comment'' checkbox. Once you have found this information collection request, select ''Comment,'' and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

FOR FURTHER INFORMATION CONTACT: Matthew Birnbaum, Ph.D., Supervising Social Scientist, Office of Research and Evaluation, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Birnbaum can be reached by telephone at 202–653–4760, or by email at *mbirnbaum@imls.gov.* Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit *www.imls.gov.*

Current Actions: This Notice proposes the emergency/expedited clearance to administer surveys to Communities for Immunity Program project leaders and participants in funded activities and to conduct interviews with a subset of project leaders and participants. Communities for Immunity is a short-term, one-time program that supports the communication and community engagement efforts of museums, libraries, and their community partners to improve confidence in COVID–19 vaccines and ultimately, improve COVID–19 vaccination rates, to address this urgent national public health crisis. The program evaluation will investigate whether and the degree to which project activities influenced participants' understanding, beliefs, attitudes, or behavior regarding COVID–19 vaccines, with the aim of identifying communication and engagement strategies that can be replicated in other communities. The proposed data collection will complement findings from document review and analysis of program administrative data to generate insights into which strategies work well for whom in what contexts. IMLS will share findings as broadly as possible—including among agency partners, professional association audiences, and with the public—to enable others to implement influential local engagement.

Agency: Institute of Museum and Library Services.

Title: Communities for Immunity Program Evaluation.

OMB Control Number: 3137–NEW.

Agency Number: 3137.

Affected Public: Communities for Immunity project leaders and program-participating public.

Total Number of Respondents: 1,186.

Frequency of Response: Once.

Average Minutes per Response: 6.

Total Burden Hours: 120.5.

Total Annualized Capital/Startup Costs: n/a.

Total Annual Cost Burden: $ 4,688.66.

Total Annual Federal Costs: $54,545.46.

Dated: October 12, 2021.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2021–22541 Filed 10–14–21; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

30-Day Notice for the ''Final Descriptive Report Update''

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Final Descriptive Report Update. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting *www.Reginfo.gov.*

DATES: Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''National Endowment for the Arts'' under ''Currently Under Review;'' then check ''Only Show ICR for Public Comment'' checkbox. Once you have found this information collection request, select ''Comment,'' and enter or upload your comment and information. Alternatively, comments can be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Agency: National Endowment for the Arts.

Title: Final Descriptive Report Update.

OMB Number: 3135–0140.

Frequency: Annually.

Affected Public: Nonprofit organizations, government agencies, and individuals.

Estimated Number of Respondents: 13,404.

Estimated time per respondent: 2.43 hours.

Total burden hours: 35,682 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Final Descriptive Reports elicit relevant information from individuals, nonprofit organizations, and government arts agencies that receive funding from the National Endowment for the Arts. According to OMB 2 CFR part 200, recipients of federal funds are required to report on project activities and expenditures. Reporting requirements are necessary to ascertain that grant projects have been completed, and that all terms and conditions have been fulfilled.

Dated: October 12, 2021.

Meghan Jugder,

Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2021–22532 Filed 10–14–21; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of October 18, 25, November 1, 8, 15, 22, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of October 18, 2021

Tuesday, October 19, 2021

10:00 a.m. All Employees Meeting with the Commissioners (Public Meeting); (Contact: Anthony DeJesus: 301–287–9219)

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://www.nrc.gov/.*

Week of October 25, 2021—Tentative

Thursday, October 28, 2021

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Stephen Poy: 301–415–7135)

Additional Information: Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Week of November 1, 2021—Tentative

There are no meetings scheduled for the week of November 1, 2021.

Week of November 8, 2021—Tentative

There are no meetings scheduled for the week of November 8, 2021.

Week of November 15, 2021—Tentative

There are no meetings scheduled for the week of November 15, 2021.

Week of November 22, 2021—Tentative

There are no meetings scheduled for the week of November 22, 2021.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on

requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Tyesha.Bush@nrc.gov* 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: October 13, 2021.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021–22678 Filed 10–13–21; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–7 and CP2022–8]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 19, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–7 and CP2022–8; *Filing Title:* USPS Request to Add Priority Mail Express Contract 92 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 8, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 19, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–22505 Filed 10–14–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93284; File No. S7–07–21]

Order Granting Conditional Substituted Compliance in Connection With Certain Requirements Applicable to Non-U.S. Security-Based Swap Dealers Subject to Regulation in the Swiss Confederation

October 8, 2021.

I. Overview

UBS AG and Credit Suisse AG (the ''Swiss Firms'') submitted an application requesting that the Securities and Exchange Commission (''Commission'') determine, pursuant to the Securities Exchange Act of 1934 (''Exchange Act'') rule 3a71–6, that security-based swap dealers (''SBSDs'') subject to regulation in the Swiss Confederation (''Switzerland'') conditionally may satisfy requirements under the Exchange Act by complying with comparable Swiss requirements.[1] The Swiss Firms sought substituted compliance in connection with certain Exchange Act requirements related to risk control, internal supervision and compliance, and record keeping, reporting, and notification.[2] The Swiss Application incorporated comparability analyses between the relevant requirements in Exchange Act section 15F and the rules and regulations thereunder and applicable Swiss law, as well as information regarding Swiss supervisory and enforcement frameworks.

On August 10, 2021, the Commission issued a notice of the Swiss Application, accompanied by a proposed order (the ''proposed Order'') to make a positive substituted compliance determination in

[1] *See* Letter from Colin Lloyd of Cleary Gottlieb Steen & Hamilton LLP on behalf of UBS AG and Credit Suisse AG to Vanessa Countryman, Secretary, Commission, dated August 10, 2021 (the ''Swiss Application''). The Swiss Application is available on the Commission's website at: *https://www.sec.gov/page/exchange-act-substituted-compliance-and-listed-jurisdiction-applications-security-based-swap*.

[2] ''Risk control'' includes requirements related to internal risk management, trade acknowledgment and verification, portfolio reconciliation and dispute resolution, portfolio compression and trading relationship documentation; ''internal supervision and compliance'' includes requirements related to diligent supervision, conflicts of interest, information gathering under Exchange Act section 15F(j), 15 U.S.C. 78*o*–10(j), and chief compliance officers; ''record keeping, reporting, and notification'' includes requirements related to making and keeping current certain prescribed records, preservation of records, reporting, and notification.

connection with the Swiss Application.[3] The proposed Order incorporated a number of conditions to tailor the scope of substituted compliance consistent with the prerequisite that relevant Swiss requirements produce regulatory outcomes that are comparable to relevant requirements under the Exchange Act.

As discussed below, the Commission is adopting a final Order that has been modified from the proposal to make clarifying changes in response to comments.

II. Substituted Compliance Framework and Prerequisites

A. Substituted Compliance Framework and Purpose

As the Commission has discussed previously,[4] Exchange Act rule 3a71–6 provides a framework whereby non-U.S. SBSDs and major security-based swap participants (''MSBSPs'') (together, ''SBS Entities'') may satisfy certain requirements under Exchange Act section 15F by complying with comparable regulatory requirements of a foreign jurisdiction.[5] Because substituted compliance does not constitute exemptive relief, but instead provides an alternative method by which non-U.S. SBS Entities may comply with applicable Exchange Act requirements, the non-U.S. SBS Entities would remain subject to the relevant requirements under section 15F. The Commission accordingly will retain the authority to inspect, examine and supervise those SBS Entities' compliance and take enforcement action as appropriate. Under the substituted compliance framework, failure to comply with the applicable foreign requirements and other conditions to a substituted compliance order would lead to a violation of the applicable requirements under the Exchange Act and potential enforcement action by the Commission (as opposed to automatic revocation of the substituted compliance order).

Under rule 3a71–6, substituted compliance potentially is available in connection with certain section 15F requirements,[6] but is not available in connection with antifraud prohibitions and certain other requirements under the Federal securities laws.[7] SBS Entities in Switzerland accordingly must comply directly with those requirements notwithstanding the availability of substituted compliance for other requirements.

The substituted compliance framework reflects the cross-border nature of the security-based swap market, and is intended to promote efficiency and competition by helping to address potential duplication and inconsistency between relevant U.S. and foreign requirements.[8] In practice, substituted compliance may be expected to help SBS Entities leverage their existing systems and practices to comply with relevant Exchange Act requirements in conjunction with their compliance with relevant foreign requirements. As of August 6, 2021, market participants have been required to assess whether their security-based swap activities meet or exceed certain thresholds for registration with the Commission as SBS Entities, with the first registrations by SBSDs required by November 1, 2021, and by MSBSPs by December 1, 2021.[9] Substituted compliance may be expected to assist such market participants in preparing for registration.

B. Scope of Substituted Compliance

The Swiss Application relates solely to entity-level requirements and for entity-level Exchange Act requirements a Covered Entity must choose either to apply substituted compliance pursuant to the Order with respect to all security-based swap business subject to the relevant Swiss requirements or to comply directly with the Exchange Act with respect to all such business; a Covered Entity may not choose to apply substituted compliance for some of the business subject to the relevant Swiss requirements and comply directly with the Exchange Act for another part of the business that is subject to the relevant Swiss requirements. Additionally, for entity-level Exchange Act requirements, if the Covered Entity also has security-based swap business that is not subject to the relevant Swiss requirements, the Covered Entity must either comply directly with the Exchange Act for that business or comply with the terms of another applicable substituted compliance order.

C. Specific Prerequisites

1. Comparability of Regulatory Outcomes

Rule 3a71–6, adopted by the Commission in 2016, describes the requirements for the Commission to make a substituted compliance determination. Under the rule, the Commission must determine that the analogous foreign requirements are comparable to otherwise applicable requirements under the Exchange Act (*i.e.,* the relevant requirements in the Exchange Act and the rules and regulations thereunder), after accounting for factors such as ''the scope and objectives of the relevant foreign regulatory requirements'' and ''the effectiveness of the supervisory compliance program administered, and the enforcement authority exercised'' by the foreign authority.[10] The comparability assessments are to be based on a ''holistic approach'' that ''will focus on the comparability of regulatory outcomes rather than predicating substituted compliance on requirement-by-requirement similarity.'' [11]

[3] *See* Exchange Act Release No. 92632 (Aug. 10, 2021), 86 FR 45770, 45792 (''Swiss Substituted Compliance Notice and Proposed Order'').

[4] *See* Exchange Act Release No. 90765 (Dec. 22, 2020), 85 FR 85686, 85687 (Dec. 29, 2020) (''German Substituted Compliance Order''); Exchange Act Release No. 92484 (July 23, 2021), 86 FR 41612, 41612–13 (Aug. 2, 2021) (''French Substituted Compliance Order''); Exchange Act Release No. 92529 (July 30, 2021), 86 FR 43318, 43318–19 (Aug. 6, 2021) (''UK Substituted Compliance Order''); Exchange Act Release No. 47668 (August 20, 2021), 85 FR 47668, 47668–69 (Aug. 26, 2021) (''Spanish Substituted Compliance Notice and Proposed Order'').

[5] See Exchange Act Release No. 77617 (Apr. 14, 2016), 81 FR 29960, 30079 (May 13, 2016) (''Business Conduct Adopting Release'').

[6] 17 CFR 240.3a71–6(d).

[7] Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45771 n.5 (addressing unavailability of substituted compliance in connection with antifraud provisions, as well as provisions related to transactions with counterparties that are not eligible contract participants (''ECPs''), segregation of customer assets, required clearing upon counterparty election, regulatory reporting and public dissemination, and registration of offerings).

[8] *See generally* Business Conduct Adopting Release, 81 FR at 30073 (noting that the cross-border nature of the security-based swap market poses special regulatory challenges, in that relevant U.S. requirements ''have the potential to lead to requirements that are duplicative of or in conflict with applicable foreign business conduct requirements, even when the two sets of requirements implement similar goals and lead to similar results'').

[9] *See* ''Key Dates for Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants,'' available at *https://www.sec.gov/page/key-dates-registration-security-based-swap-dealers-and-major-security-based-swap-participants.*

[10] Exchange Act rule 3a71–6(a)(2)(i).

[11] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45772; *see also* Business Conduct Adopting Release, 81 FR at 30078-79 (further recognizing that ''different regulatory systems may be able to achieve some or all of those regulatory outcomes by using more or fewer specific requirements than the Commission, and that in assessing comparability the Commission may need to take into account the manner in which other regulatory systems are informed by business and market practices in those jurisdictions''). The Commission's assessment of a foreign authority's supervisory and enforcement effectiveness—as part of the broader comparability analysis—would be expected to consider not only overall oversight activities, but also oversight specifically directed at conduct and activity relevant to the substituted compliance determination. ''For example, it would be difficult for the Commission to make a comparability determination in support of

2. Memorandum of Understanding

Exchange Act rule 3a71–6(a)(2)(ii) further predicates the availability of substituted compliance on the Commission and the foreign financial regulatory authority or authorities entering into a supervisory and enforcement memorandum of understanding and/or other arrangement with the relevant foreign financial regulatory authorities ''addressing supervisory and enforcement cooperation and other matters arising under the substituted compliance determination.'' [12] Accordingly, the Commission and FINMA recently entered into a relevant memorandum of understanding.[13] The memorandum of understanding must be in place when Covered Entities use substituted compliance to satisfy obligations under the Exchange Act.[14]

3. Certification and Opinion of Counsel

A party or group of parties that may potentially rely on a substituted compliance order may submit a substituted compliance application only if each such party provides a certification and opinion of counsel that the entity can, ''as a matter of law, provide the Commission with prompt access to its books and records, and can, as a matter of law, submit to onsite inspection and examination by the Commission.'' [15] The Swiss Application included a certification and opinion of counsel and, in the Commission's preliminary view, met this requirement.[16] The Commission received no comments on this preliminary view and has not changed its view.

III. General Availability of Substituted Compliance Under the Order

A. Covered Entities

1. Proposed Approach

Under the proposed Order, substituted compliance was only made available to ''Covered Entities''—a defined term that would limit the scope of the substituted compliance determination to SBSDs that are subject to applicable Swiss requirements and oversight. Consistent with the parameters of substituted compliance under Exchange Act rule 3a71–6, the proposed ''Covered Entity'' definition provided that the relevant entity must be a security-based swap dealer registered with the Commission, and that the entity cannot be a U.S. person.[17] The proposed ''Covered Entity'' definition further provided that the entity must be a systemically important bank authorized by FINMA to conduct banking activities in Switzerland.[18] Each entity would also have to be supervised by FINMA under the intensive and continual supervision model as a Category 1 firm as that term is defined in BO Annex 3.[19] These prongs of the definition were intended to help ensure that Covered Entities are subject to relevant Swiss requirements and oversight.

2. Commenter Views and Final Provisions

No commenters addressed the proposed Covered Entity definition and the Commission is adopting the definition as proposed.

B. Additional General Conditions

1. Proposed Approach

The proposed Order incorporated a number of additional general conditions and other prerequisites, to help ensure that the relevant Swiss requirements that form the basis for substituted compliance in practice will apply to the Covered Entity's security-based swap business and activities, and to promote the Commission's oversight over entities that avail themselves of substituted compliance:

- ''*Subject to and Complies with*'' *applicability condition*—For each relevant section of the proposed Order, a positive substituted compliance determination would be predicated on the entity being subject to and complying with the applicable Swiss requirements needed to establish comparability.[20]
- *Security-based swaps and transactions as* ''*derivatives*'' *or* ''*derivative transactions*''—For each relevant section of the proposed Order that requires the application of, and the Covered Entity's compliance with, provisions of FinMIA and FMIO, a positive substituted compliance determination would require that the relevant security-based swaps and security-based swap transactions are ''derivatives'' and/or ''derivative transactions'' for purposes of FinMIA article 2(c), or otherwise is described by the relevant language of that provision.[21]
- ''*Counterparty*'' *status*—For each section of the proposed Order that requires the application of, and the Covered Entity's compliance with, the provisions of FinMIA and FMIO, the proposed Order would require that the Covered Entity comply with the applicable conditions of the Order regardless of whether the Covered Entity's counterparty is a ''counterparty'' for purposes of FinMIA article 93, or otherwise is described by the relevant language of that provision.[22]
- *Counterparty status as* ''*company*''—For each section of the proposed Order that requires the application of, and the Covered Entity's compliance with, the provisions of FMIO, the Covered Entity would be required to comply with the applicable conditions of the proposed Order regardless of whether a Covered Entity's counterparty were a ''company'' for purposes of FMIO article 77, or otherwise is described by the relevant language of that provision.[23]
- *Covered Entity as* ''*bank*''—For each condition of the proposed Order that requires the application of, and the Covered Entity's compliance with, the provisions of the BA and BO and/or other Swiss requirements adopted pursuant to those provisions, the Covered Entity would be required to be a ''bank'' for purposes of BA article 1a, or otherwise is described by the relevant language of that provision.[24]
- *Covered Entity as* ''*systemically important*''—For each condition of the proposed Order that requires the application of, and the Covered Entity's compliance with, the provisions of FINMA Circular 2017/1, the Covered

substituted compliance if oversight is directed solely at the local activities of foreign security-based swap dealers, as opposed to the cross-border activities of such dealers.'' Business Conduct Adopting Release, 81 FR at 30079 (footnote omitted). In the Swiss Substituted Compliance Notice and Proposed Order, the Commission preliminarily concluded that this comparability prerequisite was met in connection with a number of requirements under the Exchange Act, in some cases with the addition of conditions to help ensure the comparability of regulatory outcomes.

[12] *See* Exchange Act rule 3a71–6(a)(2)(ii).

[13] The Commission and FINMA have entered into a memorandum of understanding to address substituted compliance cooperation, a copy of which is on the Commission's website at *www.sec.gov* under the ''Substituted Compliance'' tab, which is located on the ''Security-Based Swap Markets'' page in the Division of Trading and Markets section of the site.

[14] *See* para. (a)(8) of the Order.

[15] *See* Exchange Act rule 3a71–6(c)(1)(ii).

[16] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45771 n.8.

[17] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45791.

[18] *Id.*

[19] *Id.*

[20] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45788.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.*

Entity would be required to be ''systemically important'' for purposes of BA article 8(3), or otherwise is described by the relevant language of that provision.[25]

• *Covered Entity as ''category 1''*—For each condition of the proposed Order that required the application of, and the Covered Entity's compliance with, the provisions of FINMA Circular 2017/1, the Covered Entity would be required to be supervised as ''category 1,'' as defined in BO articles 2(2) and 2(3) and BO Annex 3, or otherwise is described by the relevant language of those provisions.[26]

• *''Institution-specific approach'' to operational risk quantification*—For each condition in the proposed Order that requires the application of, and the Covered Entity's compliance with, the provisions of FINMA Circular 2008/21 margins 45–107, the Covered Entity would be required to apply he ''institution-specific approach'' to quantifying capital requirements for operational risk, as defined in CAO article 94, or otherwise is described by the relevant language of those provisions, and as approved by FINMA.[27]

• *Memorandum of understanding*—Consistent with the requirements of rule 3a71–6 and the Commission's need for access to information regarding registered entities, substituted compliance under the proposed Order would be conditioned on the Commission having an applicable memorandum of understanding or other arrangement with FINMA addressing cooperation with respect to the Order at the time the Covered Entity makes use of substituted compliance.[28]

• *Notice of reliance on substituted compliance*—To assist the Commission's oversight of firms that avail themselves of substituted compliance, a Covered Entity relying on the Order would have to provide notice of its intent to rely on the Order by notifying the Commission in the manner specified on the Commission's website.[29] In the notice, the Covered Entity would need to identify each specific substituted compliance determination in the proposed Order for which the Covered Entity intends to apply substituted compliance.[30] If a Covered Entity were to elect not to apply substituted compliance with respect to a specific substituted compliance determination in the proposed Order, it would be required to comply with the Exchange Act requirements subject to that determination. Finally, a Covered Entity would have to promptly update its notice to the Commission if it intended to modify its reliance on the positive substituted compliance determinations in the proposed Order.[31]

• *Notification related to changes in capital category*—Covered Entities with a prudential regulator would need to apply substituted compliance with respect to the requirements of Exchange Act rule 18a–8(c) and the requirements of Exchange Act rule 18a–8(h) as applied to Exchange Act rule (c).[32] Exchange Act rule 18a–8(c) generally requires every security-based swap dealer with a prudential regulator that files a notice of adjustment of its reported capital category with the Federal Reserve Board, the Office of the Comptroller of the Currency, or the Federal Deposit Insurance Corporation to give notice of this fact to the that same day by transmitting a copy to the Commission of the notice of adjustment of reported capital category in accordance with Exchange Act rule 18a–8(h).[33] Exchange Act rule 18a–8(h) sets forth the manner in which every notice or report required to be given or transmitted pursuant to Exchange Act rule 18a–8 must be made. While Exchange Act rule 18a–8(c) is not linked to an Exchange Act capital requirement, it is linked to capital requirements in the U.S. promulgated by the prudential regulators. In its application, the Swiss Firms cited various Swiss provisions as providing similar outcomes to the notifications requirements of Exchange Act Rule 18a–8.[34] This general condition would be designed to clarify that a prudentially regulated Covered Entity must provide the Commission with copies of any notifications regarding changes in the Covered Entity's capital situation required by Swiss law. The intent is to align the notification requirement with the Swiss capital requirements applicable to the Covered Entity.

2. Commenter Views and Final Provisions

The Commission did not receive comments addressing the substance of the proposed Order's additional general conditions, and the Commission is issuing those general conditions largely as proposed.[35] In the Commission's view, the conditions are structured appropriately to predicate a positive substituted compliance determination on the applicability of relevant Swiss requirements needed to establish comparability, as well as on the continued effectiveness of the requisite memorandum of understanding, and the provision of notice to the Commission regarding the Covered Entity's intent to rely on substituted compliance. The Commission did receive one comment recommending two typographical changes to the general conditions, which the Commission is incorporating in the Order.[36]

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] See para. (a)(9) of the Order. If the Covered Entity intends to rely on all the substituted compliance determinations in a given paragraph of the Order, it can cite that paragraph in the notice. For example, if the Covered Entity intends to rely on the risk control determinations in paragraph (b) of the Order, it would indicate in the notice that it is relying on the determinations in paragraph (b). However, if the Covered Entity intends to rely on the internal risk management, trade acknowledgement and verification, and portfolio reconciliation determinations but not the portfolio compression determination, it would need to indicate in the notice that it is relying on paragraphs (b)(1)–(3) of the Order. In this case, paragraph (b)(4) of the Order (the portfolio compression determination) would be excluded from the notice and the Covered Entity would need to comply with the Exchange Act portfolio compression requirements. Further, as discussed below in section VI.B, the recordkeeping and reporting determinations in the Order have been structured to provide Covered Entities with a high level of flexibility in selecting specific requirements within those rules for which they want to rely on substituted compliance. For example, paragraph (d)(1)(i) of the Order sets forth the Commission's preliminary substituted compliance determinations with respect to the requirements of Exchange Act rule 18a–5, 17 CFR 240.18a–5. These determinations are set forth in paragraphs (d)(1)(i)(A) through (K). If a Covered Entity intends to rely on some but not all of the determinations, it would need to identify in the notice the specific determinations in this paragraph it intends to rely on (*e.g.,* paragraphs (d)(1)(i)(A), (B), (C), (D), (G), (H), (I), and (K)). For any determinations excluded from the notice, the Covered Entity would need to comply with the Exchange Act rule 18a–5 requirement.

[31] A Covered Entity would modify its reliance on the positive substituted compliance determinations in the Order, and thereby trigger the requirement to update its notice, if it adds or subtracts determinations for which it is applying substituted compliance or completely discontinues its reliance on the Order.

[32] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45788.

[33] 17 CFR 240.18a–8(c) and (h).

[34] *See* FINMASA article 29(2); CAO articles 14, 42(3), 101, and 130(4); and Liquidity Ordinance articles 17b and 26(2).

[35] *See* paras. (a)(1) through (10) of the Order.

[36] *See* Letter from Gordon Kiesling, Managing Director, UBS AG, Thomas Bischof, Managing Director, UBS AG, Maria Chiodi, Managing Director, Credit Suisse AG, and Drew Shoemaker, Managing Director, Credit Suisse AG (Sept. 10, 2021) (''Swiss Firms' Letter'') at Annex (proposing edits to paragraphs (a)(2) and (a)(6) of the Order to add the word ''whether'' to (a)(2) and to change ''is'' to ''are'' in (a)(6)).

IV. Substituted Compliance for Risk Control Requirements

A. Proposed Approach

The Swiss Application in part requested substituted compliance in connection with risk control requirements relating to:

- *Internal risk management*—Internal risk management system requirements that address the obligation of registered entities to follow policies and procedures reasonably designed to help manage the risks associated with their business activities.
- *Trade acknowledgment and verification*—Trade acknowledgment and verification requirements intended to help avoid legal and operational risks by requiring definitive written records of transactions and procedures to avoid disagreements regarding the meaning of transaction terms.
- *Portfolio reconciliation and dispute reporting*—Portfolio reconciliation and dispute reporting provisions that require that counterparties engage in portfolio reconciliation and resolve discrepancies in connection with uncleared security-based swaps, and to provide prompt notification to the Commission and applicable prudential regulators regarding certain valuation disputes.
- *Portfolio compression*—Portfolio compression provisions that require that SBS Entities have procedures addressing bilateral offset, bilateral compression and multilateral compression in connection with uncleared security-based swaps.
- *Trading relationship documentation*—Trading relationship documentation provisions that require SBS Entities to have procedures to execute written security-based swap trading relationship documentation with their counterparties prior to, or contemporaneously with, executing certain security-based swaps.[37]

Taken as a whole, these risk control requirements help to promote market stability by mandating that registered entities follow practices that are appropriate to manage the market, counterparty, operational, and legal risks associated with their security-based swap businesses.

No Proposed Positive Substituted Compliance Determination—Dispute Reporting and Trading Relationship Documentation: In connection with dispute reporting and trading relationship documentation, the Commission stated a preliminary view that the Swiss requirements were not comparable to Exchange Act requirements.[38] The Commission noted in its initial assessment of the comparability of dispute reporting requirements that paragraph (c) of Exchange Act rule 15Fi–3 requires SBSDs to promptly report to the Commission valuation disputes in excess of $20 million that have been outstanding for three or five business days (depending on counterparty types),[39] and that Swiss law lacks a specific requirement for reporting security-based swap valuation disputes in excess of $20 million.[40] The Commission noted in its initial assessment of trading relationship documentation requirements that Exchange Act rule 15Fi–5 requires that ''security-based swap trading relationship documentation shall be in writing and shall include all terms governing the trading relationship between the security-based swap dealer . . . and its counterparty,'' [41] and that under Swiss law there is no explicit requirement to agree in writing to all terms governing the trading relationship.[42] Considering these and other differences described in the proposed Order,[43] the Commission did not propose to make a positive substituted compliance determination with respect to dispute reporting or trading relationship documentation requirements.

Proposed Positive Substituted Compliance Determination—Internal Risk Management, Trade Acknowledgement and Verification, Portfolio Reconciliation and Portfolio Compression: With respect to these risk control requirements, the Commission stated a preliminary view based on the Swiss Application and the Commission's review of applicable provisions, that relevant Swiss requirements would produce regulatory outcomes that are comparable to those associated with the internal risk management, trade acknowledgement and verification, portfolio reconciliation, and portfolio compression risk control requirements. Substituted compliance for those risk control requirements accordingly would be conditioned on Covered Entities being subject to and complying with the Swiss provisions that in the aggregate establish a framework that produces outcomes comparable to those associated with the analogous risk control requirements under the Exchange Act.[44]

- *Proposed Positive Substituted Compliance Determination Conditions—Portfolio Reconciliation:* In connection with portfolio reconciliation requirements, the Commission stated a preliminarily view that Swiss requirements are comparable to Exchange Act requirements, but only when part of one of the applicable Swiss requirements is not applied. The proposed Order therefore included the requirement that a Covered Entity be subject to and comply with FinMIA 108(b) and also the requirement that Covered Entities not apply FinMIA article 108(b)'s exception for ''small non-financial counterparties'' as defined in FinMIA article 98.[45]
- *Proposed Positive Substituted Compliance Determination Conditions—Portfolio Compression:* In connection with portfolio compression requirements, the Commission stated its preliminary view that Swiss requirements were comparable to Exchange Act requirements, but only when one of the applicable Swiss exclusions is not applied. The proposed Order included the requirement that a Covered Entity be subject to and comply with FinMIA article 108(d) and also include a requirement that Covered Entities not apply the portion of FinMIA article 108(d) that excludes application of its requirements when there are fewer than 500 non-centrally cleared OTC derivatives transactions outstanding.[46]

B. Commenter Views and Final Provisions

1. General Considerations

Trading Relationship Documentation: The Commission received one comment

[37] *See* Exchange Act Release No. 87782 (Dec. 18, 2019) 85 FR 6359, 6361 (Feb. 4, 2020) (''Risk Mitigation Adopting Release'').The Swiss Application discusses Swiss requirements regarding records of agreements with counterparties. *See* Swiss Application section II.1.c at 17–19, 24–31.

[38] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45774–75 (excluding Exchange Act rule 15Fi–3(c) covering reporting of security-based swap valuation disputes from the risk control provisions covered by paragraph (b)(3) the proposed Order).

[39] *See* 17 CFR 240.15Fi–3(c).

[40] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45774–75.

[41] *See* 17 CFR 240.15Fi–5(b)(1).

[42] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45775.

[43] *See id.*

[44] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45788. (listing in paragraph (b)(1) of the proposed Order the requirements a Covered Entity must be subject to and comply with in connection with internal risk management, in paragraph (b)(2) the requirements a Covered Entity must be subject to and comply with in connection with trade acknowledgement and verification, in paragraph (b)(3) the requirements a Covered Entity must be subject to and comply with in connection with portfolio reconciliation, and paragraph (b)(4) the requirements a Covered Entity must be subject to and comply with in connection with portfolio compression).

[45] See Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45788.

[46] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45788.

concerning the risk control requirements that specifically addressed trading relationship documentation.[47] In its letter, the commenter disagreed with the Commission's preliminary view not to make a positive substituted compliance determination for the trading relationship documentation requirements of Exchange Act rule 15Fi–5.[48] In support of its position the commenter generally noted the ''various documentation-related requirements as listed in the Swiss Application,'' [49] and cited as its primary example that Swiss law ''does impose an obligation on a Covered Entity to perform daily internal valuations for risk management purposes.'' [50] While the described obligation may be relevant for requirements related to portfolio reconciliation and internal risk management, it did not address the Exchange Act's trading relationship documentation requirement that SBSDs have procedures to ensure that trading relationship documentation is executed with counterparties prior to, or contemporaneously with, executing certain security-based swap transactions.[51] Additionally, consistent with the Swiss Application's statement that under Swiss law ''there is no explicit requirement to agree in writing to all terms governing the trading relationship,'' [52] the commenter's letter notes that ''Swiss law does not specifically require Covered Entities to agree with counterparties on the process for valuing each SBS.'' [53] Although the commenter asserted that ''parties will in practice agree on how SBS are valued,'' [54] the Commission has previously stated that voluntary market practices do not establish the requisite supervisory framework or enforcement authority to establish the specific regulatory requirements of Exchange Act section 15Fi–5.[55] Additionally, the commenter asserted that the ''documentation requirement is intended to ensure parties always have legal certainty regarding their contractual obligations to each other,'' but proceeded to note that its current practices under Swiss law do not always fulfill this requirement.[56] Ultimately, the Commission is unconvinced by the commenter's arguments that Swiss law imposes trading relationship documentation requirements that are comparable to those under Exchange Act rule 15Fi–5. Therefore, for the reasons discussed above and in the proposed Order, the Commission is not making a positive substituted compliance determination in relation to trading relationship documentation.

The commenter also requested that, as an alternative to a positive substituted compliance determination for trading relationship documentation generally, the Commission provide relief from the requirements of Exchange Act rule 15Fi–5(b)(5) [57] relating to disclosures for insured depository institutions and financial companies under the Dodd Frank Act.[58] In support of its request the commenter noted that such relief would be consistent with the rule's goal of ''enhancing transparency and legal certainty regarding each party's rights and obligations under the transaction.'' [59] However, the commenter did not identify Swiss requirements that would require comparable disclosure of those rights and obligations or governing law under the transaction and, in fact, noted that because Swiss law subjects banks to a depositor protection scheme, no documentation is required.[60] The commenter also posits that the Commission should grant relief to be consistent with its approach taken in other jurisdictions.[61] However, in each of the jurisdictions cited by the commenter, comparable requirements were identified by the applicants to warrant a positive substituted compliance determination.[62] A comparable disclosure requirement under Swiss law has not been identified in either the Swiss Application [63] or the commenter's letter.[64]

As previously stated, in lieu of requiring requirement-by-requirement similarity, the Commission takes a holistic approach to assessing comparability analysis, encompassing all Swiss requirements that establish comparability with the applicable regulatory outcome.[65] However, as neither the Swiss Application, nor the commenter, has identified an applicable regulation under Swiss law, the Commission is unable to determine comparability. Therefore, the Commission is not granting the commenter's requested relief and is not making a positive substituted compliance determination specific to the requirements of Exchange Act rule 15Fi–5(b)(5).

Dispute Reporting: The Commission did not receive comments on its preliminary view with respect to dispute resolution. For the reasons described in the proposed Order,[66] the Commission continues to believe that Swiss dispute reporting requirements are not comparable to Exchange Act requirements and is not making a positive substituted compliance determination for them.

Other Risk Control Requirements: Having not received any comments addressing them, the Commission continues to conclude that, taken as a whole, the internal risk management, trade acknowledgment and verification, portfolio reconciliation, and portfolio compression requirements under Swiss law subject Covered Entities to risk mitigation and documentation practices that are appropriate to the risks associated with their security-based swap businesses, and thus help to produce regulatory outcomes that are comparable to the outcomes associated with the relevant risk control requirements under the Exchange Act. Although the Commission recognizes that there are differences between the approaches taken by the relevant risk control requirements under the Exchange Act and relevant Swiss

[47] *See* Swiss Firms' Letter at 1–4.

[48] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45775.

[49] *See* Swiss Firms' Letter at 2.

[50] *See* Swiss Firms' Letter at 2.

[51] 17 CFR 240.15Fi–5(a)(2), Exchange Act rule 15Fi–5(a)(2).

[52] *See* Swiss Application section II.1.c at 24.

[53] *See* Swiss Firms' Letter at 2.

[54] *Id.*

[55] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45775 n.53.

[56] *See* Swiss Firms' Letter at 2 (stating that ''in very limited instances, key terms may be documented in a confirmation shortly after an oral agreement'').

[57] 17 CFR 240.15Fi–5(b)(5), Exchange Act rule 15Fi–5(b)(5).

[58] The trading relationship documentation provisions of rule 15Fi–5(b)(5), 17 CFR 240.15Fi–5(b)(5), require certain disclosures regarding the status of the SBS Entity or its counterparty as an insured depository institution or financial counterparty, and regarding the possible application of the insolvency regime set forth under Title II of the Dodd-Frank Act or the Federal Deposit Insurance Act.

[59] *See* Swiss Firms' Letter at 3 (quoting the Risk Mitigation Adopting Release, 85 FR at 6361).

[60] *See* Swiss Firms' Letter at 3.

[61] *See* Swiss Firms' Letter at 3–4 (citing to the French Substituted Compliance Order, 86 FR at 41623 n.136, German Substituted Compliance Order, 85 FR at 85690 n.36, and Spanish Substituted Compliance Notice and Proposed Order, 86 FR at 47674 n.66).

[62] *See* French Substituted Compliance Order, 86 FR at 41623 n.136 (citing EMIR Margin RTS article 2); German Substituted Compliance Order, 85 FR at 85690 n.36 (citing EMIR Margin article 2 and EMIR Margin RTS article 2); Spanish Substituted Compliance Notice and Proposed Order, 86 FR at 47674 n.66 (citing EMIT Margin RTS).

[63] *See* Swiss Application section II.1.c at 28–29 (stating that ''because Swiss law subjects banks to a depositor protection scheme, documentation of the bank's status as such is not required'').

[64] *See* Swiss Firms' Letter at 3 (stating that ''Swiss laws do not require the same disclosure [as Exchange Act rule 15Fi–5(b)(5)]'').

[65] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45775.

[66] *See id.* at 45774–75.

requirements, the Commission continues to believe that those differences on balance should not preclude substituted compliance for these requirements, as the relevant Swiss requirements taken as a whole help to produce comparable regulatory outcomes.

To help ensure the comparability of outcomes, substituted compliance for the relevant risk control requirements is subject to certain conditions. Substituted compliance for internal risk management, trade acknowledgment and verification, portfolio reconciliation, and portfolio compression requirements is conditioned on the Covered Entity being subject to, and complying with, relevant Swiss requirements.[67] In connection with portfolio reconciliation requirements, the Order requires that Covered Entities not apply FinMIA article 108(b)'s exception for ''small non-financial counterparties'' as defined in FinMIA article 98. Requiring that Covered Entities not apply this exception helps ensures that the Swiss requirements for portfolio reconciliation are applied to Covered Entities in a manner comparable to the applicable Exchange Act requirements. In connection with portfolio compression requirements, the Order also requires that Covered Entities not apply the portion of FinMIA article 108(d) that excludes application of its requirements when there are fewer than 500 non-centrally cleared OTC derivatives transactions outstanding.[68] Requiring that Covered Entities not apply this exclusion helps ensure that the Swiss requirements for portfolio compression are applied to Covered Entities in a manner comparable to the applicable Exchange Act requirements. A Covered Entity that is unable to comply with an applicable condition—and thus is not eligible to use substituted compliance for the particular set of Exchange Act risk control requirements related to that condition—nevertheless may use substituted compliance for another set of Exchange Act requirements addressed in the Order if it complies with the conditions to the relevant parts of the Order.

Under the Order, substituted compliance for the relevant risk control requirements (relating to internal risk management, trade acknowledgment and verification, portfolio reconciliation, and portfolio compression) is not subject to a condition that the Covered Entity apply substituted compliance for related recordkeeping requirements in Exchange Act rules 18a–5 and 18a–6. A Covered Entity that applies substituted compliance for one or more risk control requirements, but does not apply substituted compliance for the related recordkeeping requirements in Exchange Act rules 18a–5 and 18a–6, will remain subject to the relevant provisions of Exchange Act rules 18a–5 and 18a–6. Those rules require the Covered Entity to make and preserve records of its compliance with Exchange Act risk control requirements and of its security-based swap activities required or governed by those requirements. A Covered Entity that applies substituted compliance for a risk control requirement, but complies directly with related recordkeeping requirements in rules 18a–5 and 18a–6, therefore must make and preserve records of its compliance with the relevant conditions of the Order and of its security-based swap activities required or governed by those conditions and/or referenced in the relevant parts of rules 18a–5 and 18a–6.

V. Substituted Compliance for Internal Supervision, Chief Compliance Officer and Additional Exchange Act Section 15F(j) Requirements

A. Proposed Approach

The Swiss Application requested substituted compliance in connection with requirements relating to:

- *Internal supervision*—Diligent supervision is required pursuant to Exchange Act rule 15Fh–3(h),[69] and Exchange Act section 15F(j)(5) requires conflict of interest systems and procedures. These provisions generally require that SBSEs establish, maintain and enforce supervisory policies and procedures that reasonably are designed to prevent violations of applicable law, and implement certain systems and procedures related to conflicts of interest.[70]
- *Chief compliance officers*—Chief compliance officer requirements are set out in Exchange Act section 15F(k) and Exchange Act rule 15Fk–1.[71] These provisions in general require that SBSEs designate individuals with the responsibility and authority to establish, administer and review compliance policies and procedures, to resolve conflicts of interest, and to prepare and certify an annual compliance report to the Commission.[72]
- *Additional Exchange Act section 15F(j) requirements*—Additional requirements related to information-gathering pursuant to Exchange Act section 15F(j)(4)(A), and certain antitrust prohibitions specified by Exchange Act section 15F(j)(6).[73]

Taken as a whole, these internal supervision, chief compliance officer and additional Exchange Act section 15F(j) requirements help to promote SBSEs' use of structures, processes and responsible personnel reasonably designed to promote compliance with applicable law, identify and cure instances of non-compliance and manage conflicts of interest.

In proposing to provide conditional substituted compliance in connection with this part of the Swiss Application, the Commission preliminarily concluded that the relevant Swiss requirements in general would produce comparable regulatory outcomes by providing that Swiss SBSDs have structures and processes that reasonably are designed to promote compliance with applicable law and to identify and cure instances of non-compliance and manage conflicts of interest. Substituted compliance under the proposed Order was to be conditioned in part on SBSDs being subject to and complying with specified Swiss provisions that in the aggregate produce regulatory outcomes that are comparable to those associated with those internal supervision, compliance and related requirements under the Exchange Act.[74]

Under the proposed Order, substituted compliance was to be subject to certain additional conditions to help ensure the comparability of regulatory outcomes. First, substituted compliance in connection with the

[67] *See* paras. (b)(1) through (4) of the Order.

[68] *See* para. (b)(4)(ii) of the Order.

[69] 17 CFR 240.15Fh–3(h).

[70] The Swiss Application addresses Swiss provisions that address firms' supervisory systems, responsible individuals and qualification requirements for supervisors, supervisory system policies and procedures; the chief compliance officer and the chief compliance officer's reporting authority and job security, chief compliance officer policies and procedures, and chief compliance officer reports. *See* Swiss Application section II.3 at 67–109.

[71] 17 CFR 240.15Fk–1.

[72] The Swiss Application discusses Swiss requirements that address compliance officers and their responsibilities, compliance officer appointment, removal and compensation, related conflict of interest provisions and compliance-related reports. See Swiss Application section II.3.c at 90–109.

[73] Section 15F(j)(4)(A) particularly requires firms to have systems and procedures to obtain necessary information to perform functions required under section 15F. The Swiss Application in turn discusses Swiss provisions generally addressing information gathering and disclosure. See Swiss Application Section II.2 at 33. Section 15F(j)(6) prohibits firms from adopting any process or taking any action that results in any unreasonable restraint of trade, or to impose any material anticompetitive burden on trading or clearing. The Swiss Application addresses Swiss antitrust requirements. See Swiss Application section II.3.b at 78.

[74] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45775–76.

internal supervision requirements would be conditioned on the Covered Entities complying with applicable Swiss supervisory and compliance provisions as if those provisions also require the Covered Entities to comply with applicable requirements under the Exchange Act and the other conditions of the Order.[75] This condition was intended to reflect that, even with substituted compliance, Covered Entities would still directly be subject to a number of requirements under the Exchange Act and conditions of the Order that fall outside the ambit of Swiss internal supervision and compliance requirements.[76]

For similar reasons, the proposed Order conditioned substituted compliance in connection with the compliance report requirements under Exchange Act section 15F(k)(3) and Exchange Act rule 15Fk–1(c) on the Covered Entity annually providing the Commission with certain compliance reports required pursuant to FINMA Circular 2017/1 margins 78–81. Those reports must: (1) Be provided to the Commission at least annually and in the English language; (2) include a certification signed by the chief compliance officer or senior officer[77] of the Covered Entity that, to the best of the certifier's knowledge and reasonable belief and under penalty of law, the report is accurate and complete in all material respects; (3) address the Covered Entity's compliance with applicable requirements under the Exchange Act and other applicable conditions of the proposed Order in connection with requirements for which the Covered Entity is relying on the proposed Order; (4) be provided to the Commission no later than 15 days following the earlier of the submission of the report to the Covered Entity's management body or the time the report is required to be submitted to the management body; and (5) together cover the entire period that the Covered Entity's annual compliance report referenced in Exchange Act section 15F(k)(3) and Exchange Act rule 15Fk–1(c) would be required to cover.[78]

The Commission preliminarily did not provide substituted compliance for Exchange Act antitrust provisions, based on the preliminary conclusion that allowing an alternative means of compliance would not lead to comparable regulatory outcomes.[79]

B. Commenter Views and Final Provisions

The Commission received one comment addressing the internal supervision, chief compliance officer and additional Exchange Act section 15F(j) requirements section of the proposed Order[80] and other than modifying the order in response to the comment, is adopting it as proposed.[81]

The commenter stated that two Swiss provisions included in paragraph (c)(3) of the proposed Order, BO articles 14e and 14g, would not apply to Covered Entities.[82] The commenter also stated that the other provisions cited in paragraph (c)(3), in particular BO article 12 and FINMA Circular 2017/1, were sufficient for a finding of comparability.[83] With respect to BO article 14e, the Commission believes that the remaining provisions are duplicative and has therefore deleted the reference to BO article 14e.[84] With respect to BO article 14g, however, the provisions cited do not clearly address conflicts of interest of associated persons, although the Swiss Application argues that those provisions do, in practice, lead to comparable outcomes.[85] The Swiss Application, however, identified FinSA article 25,[86] which addresses conflicts of interest to the same extent as article 14g, and is applicable to the Covered Entities, but only within Switzerland. The Commission believes it is therefore necessary to make two changes to address the deletion of BO article 14g. First, the Commission has replaced BO article 14g with FinSA article 25 in paragraph (c)(3), but compliance with FinSA article 25 is only required when it is by its terms applicable (within Switzerland).[87] In addition, consistent with the Swiss Application,[88] the Commission has included a condition to BO article 12 requiring that article 12(2) be applied in a manner to address the relevant conflicts of interest.[89]

Consistent with the proposed Order, substituted compliance in connection with internal supervision further is conditioned on the Covered Entity being subject to and complying with the applicable Swiss supervisory and compliance provisions listed in paragraph (c)(3) of the Order, as if those provisions also require SBSDs to comply with applicable requirements under the Exchange Act and the other applicable conditions to the Order.[90] Substituted compliance in connection with the chief compliance officer requirements further is conditioned on the compliance reports provided to the Commission addressing the SBSD's compliance with other applicable conditions of the Order.[91] A Covered Entity that is unable to comply with an applicable condition—and thus is not eligible to use substituted compliance for the Exchange Act internal supervision and/or chief compliance officer requirements related to that condition—nevertheless may use substituted compliance for another set of Exchange Act requirements addressed in the Order if it complies with the conditions to the relevant parts of the Order.

Under the Order, substituted compliance for internal supervision and chief compliance officer requirements is not subject to a condition that the Covered Entity apply substituted compliance for related recordkeeping requirements in Exchange Act rules 18a–5 and 18a–6. A Covered Entity that

[75] In other words, the proposed Order would require that the Covered Entity's supervisory and compliance program cover the applicable requirements under the Exchange Act and other conditions of the Order.

[76] *See id.* at 45776. These residual Exchange Act requirements could, for example, relate to requirements for which substituted compliance is not available, requirements for which the Order does not make a positive substituted compliance determination, security-based swap business for which the Covered Entity is unable to satisfy the conditions of the Order, and/or requirements or security-based swap business for which the Covered Entity decides not to use substituted compliance. The condition was designed to allow a Covered Entity to use their existing internal supervision and compliance frameworks to comply with the relevant Exchange Act requirements and Order conditions, rather than having to establish separate special-purpose supervision and compliance frameworks.

[77] See Exchange Act rule 15Fk–1(e)(2) (defining ''senior officer'' as ''the chief executive officer or other equivalent officer'').

[78] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45776–77. The condition was designed to allow a Covered Entity to leverage the compliance reports that it must produce pursuant to Swiss requirements, by extending those reports to address compliance with the conditions to the proposed Order. In practice, a Covered Entity may satisfy this condition by identifying relevant Order conditions and reporting on the implementation and effectiveness of its controls with regard to compliance with those Order conditions.

[79] *See id.* at 45777.

[80] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45775–77.

[81] *See* para. (c) of the Order.

[82] *See* Letter from Colin Lloyd of Cleary Gottlieb Steen & Hamilton LLP on behalf of UBS AG and Credit Suisse AG to Vanessa Countryman, Secretary, Commission, dated October 6, 2021 (''Swiss Firms' Letter II'').

[83] *Id.*

[84] *See* para. (c)(3) of the Order.

[85] *See* Swiss Application section II.3.d at 96 and Swiss Firms' Letter II.

[86] *See* Swiss Application section II.3.d at 96.

[87] *See* para. (c)(3) of the Order.

[88] *See* Swiss Application section II.3.d at 97–98.

[89] *See* para. (c)(3) of the Order.

[90] *See* para. (c)(4) of the Order. In other words, a Covered Entity's reliance on substituted compliance under para. (c)(4) requires that the Covered Entity's supervisory and compliance programs cover the applicable provisions under the Exchange Act and other conditions of the Order.

[91] *See* para. (c)(2)(ii) of the Order.

applies substituted compliance for internal supervision and/or chief compliance officer requirements, but does not apply substituted compliance for the related recordkeeping requirements in Exchange Act rules 18a–5 and 18a–6, will remain subject to the relevant provisions of Exchange Act rules 18a–5 and 18a–6. Those rules require the Covered Entity to make and preserve records of its compliance with Exchange Act internal supervision and chief compliance officer requirements and of its security-based swap activities required or governed by those requirements. A Covered Entity that applies substituted compliance for internal supervision and/or chief compliance officer requirements, but complies directly with related recordkeeping requirements in rules 18a–5 and 18a–6, therefore must make and preserve records of its compliance with the relevant conditions of the Order and of its security-based swap activities required or governed by those conditions and/or referenced in the relevant parts of rules 18a–5 and 18a–6.

Finally, the substituted compliance Order does not extend to antitrust provisions under the Exchange Act, as the Commission continues to believe that allowing an alternative means of compliance would not lead to outcomes comparable to the Exchange Act.[92]

VI. Substituted Compliance for Recordkeeping, Reporting, and Notification Requirements

A. Proposed Approach

The Swiss Application in part requested substituted compliance for requirements applicable to SBS Entities under the Exchange Act relating to:

- *Record Making*—Exchange Act rule 18a–5 requires prescribed records to be made and kept current.[93]
- *Record Preservation*—Exchange Act rule 18a–6 requires preservation of records.[94]
- *Reporting*—Exchange Act rule 18a–7 requires certain reports.[95]
- *Notification*—Exchange Act rule 18a–8 requires notification to the Commission when certain financial or operational problems occur.[96]
- *Daily Trading Records*—Exchange Act section 15F(g) requires SBS Entities to maintain daily trading records.[97]

Taken as a whole, the recordkeeping, reporting, and notification requirements that apply to SBS Entities are designed to promote the prudent operation of the firm's security-based swap activities, assist the Commission in conducting compliance examinations of those activities, and alert the Commission to potential financial or operational problems that could impact the firm and its customers.[98]

B. Commenter Views and Final Provisions

1. General Considerations

In proposing to provide conditional substituted compliance in connection with this part of the Swiss Application, the Commission preliminarily concluded that the relevant Swiss requirements, subject to conditions and limitations, would produce regulatory outcomes that are comparable to the outcomes associated with the vast majority of the recordkeeping, reporting, and notification requirements under the Exchange Act applicable to prudentially regulated SBS Entities pursuant to Exchange Act rules 18a–5, 18a–6, 18a–7, and 18a–8 and Exchange Act section 15F(g) (collectively, the ''recordkeeping, reporting, and notification requirements'').[99] Substituted compliance for the recordkeeping, reporting, and notification requirements accordingly is conditioned on Covered Entities being subject to and complying with the Swiss provisions that in the aggregate establish a framework that produces outcomes comparable to those associated with the analogous recordkeeping, reporting, and notification requirements under the Exchange Act.[100]

The proposed structure of the substituted compliance determinations with respect to the recordkeeping, reporting, and notification requirements would have provided Covered Entities with greater flexibility to select distinct requirements within the broader rules for which they want to apply substituted compliance.[101] This would not preclude a Covered Entity from applying substituted compliance for the entire rule (subject to conditions and limitations). However, it would permit the Covered Entity to apply substituted compliance with respect to certain requirements of a given rule and to comply directly with the remaining requirements. This more granular approach to the recordkeeping, reporting, and notification rules was intended to permit Covered Entities to leverage existing recordkeeping and reporting systems that are designed to comply with the broker-dealer recordkeeping and reporting requirements on which the recordkeeping, reporting, and notification requirements applicable to SBS Entities are based. For example, it may be more efficient for a Covered Entity to comply with certain Exchange Act requirements within a given recordkeeping, reporting, or notification rule (rather than apply substituted compliance) because it can utilize systems that its affiliated broker-dealer has implemented to comply with them. This proposed approach was consistent with the approach taken by the Commission in the French and UK Orders.[102]

As applied to Exchange Act rules 18a–5 and 18a–6, this approach of providing greater flexibility resulted in preliminary substituted compliance determinations with respect to the different categories of records these

---

[92] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45777.

[93] *See* 17 CFR 240.18a–5. The Swiss Application discusses Swiss requirements that address firms' record creation obligations related to matters such as financial condition, operations, transactions, counterparties, and their property, personnel, and business conduct. *See* Swiss Application section II.2.a at 33–47.

[94] *See* 17 CFR 240.18a–6. The Swiss Application discusses Swiss requirements that address firms' record preservation obligations related to records that firms are required to create, as well as additional records such as records of communications. *See* Swiss Application section II.2.b at 48–61.

[95] *See* 17 CFR 240.18a–7. The Swiss Application discusses Swiss requirements that address firms' obligations to make certain reports. *See* Swiss Application section II.2.c at 62–64.

[96] *See* 17 CFR 240.18a–8. The Swiss Application discusses Swiss requirements that address firms' obligations to make certain notifications. *See* Swiss Application section II.2.c at 64–66.

[97] *See* 15 U.S.C. 78*o*–10(g). The Swiss Application discusses Swiss requirements that address firms' record preservation obligations related to records that firms are required to create, as well as additional records such as records of communications. *See* Swiss Application section II.2.b at 50–52.

[98] Rule 3a71–6 sets forth additional analytic considerations in connection with substituted compliance for the Commission's recordkeeping, reporting, and notification requirements. In particular, Exchange Act rule 3a71–6(d)(6) provides that the Commission intends to consider (in addition to any conditions imposed) ''whether the foreign financial regulatory system's required records and reports, the timeframes for recording or reporting information, the accounting standards governing the records and reports, and the required format of the records and reports'' are comparable to applicable provisions under the Exchange Act, and whether the foreign provisions ''would permit the Commission to examine and inspect regulated firms' compliance with the applicable securities laws.''

[99] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45777.

[100] *See* paras. (d)(1)(i)(A), (d)(1)(i)(B), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(i)(E), (d)(1)(i)(F)(*1*), (d)(1)(i)(G), (d)(1)(i)(H), (d)(1)(i)(I)(*1*), (d)(1)(i)(J)(*1*), (d)(1)(i)(K)(*1*), (d)(2)(i)(A), (d)(2)(i)(B), (d)(2)(i)(C), (d)(2)(i)(D), (d)(2)(i)(E), (d)(2)(i)(F)(*1*), (d)(2)(i)(G)(*1*), (d)(2)(i)(H), (d)(2)(i)(I), (d)(2)(i)(J), (d)(2)(i)(K)(*1*), (d)(2)(i)(L), (d)(2)(i)(M), (d)(3)(i), (d)(3)(i)(B), (d)(4)(i)(A), (d)(4)(i)(B), and (d)(5) of the Order.

[101] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45777–78.

[102] *See* French Substituted Compliance Order, 86 FR at 41649; UK Substituted Compliance Order, 86 FR at 43360.

rules require SBS Entities to make, keep current, and/or preserve.[103] The objective of these rules—taken as a whole—is to assist the Commission in monitoring and examining for compliance with substantive Exchange Act requirements applicable to SBS Entities (*e.g.,* business conduct requirements) as well as to promote the prudent operation of these firms.[104] The Commission stated a preliminary belief that the comparable Swiss recordkeeping rules achieve these outcomes with respect to compliance with substantive Swiss requirements for which preliminary positive substituted compliance determinations were being made (*e.g.,* the preliminary positive substituted compliance determinations with respect to the Exchange Act business conduct requirements).[105] At the same time, the recordkeeping rules address different categories of records through distinct requirements within the rules. Each requirement with respect to a specific category of records (*e.g.,* paragraph (b)(2) of Exchange Act rule 18a–5 addressing ledger accounts) can be viewed in isolation as a distinct recordkeeping rule. Therefore, the Commission made preliminary substituted compliance determinations at this level of Exchange Act rules 18a–5 and 18a–6.[106] The Commission did not receive comment on this granular approach and is adopting it as proposed.[107]

Second, the Commission did not make a preliminary positive substituted compliance determination with respect to a discrete provision of the recordkeeping, reporting, and notification requirements if it was fully or partially linked to a substantive Exchange Act requirement for which substituted compliance was not available or for which a preliminary positive substituted compliance determination was not being made.[108] In particular, a preliminary positive substituted compliance determination was not made, in full or in part, for recordkeeping, reporting, or notification requirements linked to the following Exchange Act rules for which substituted compliance is not available or a preliminary positive substituted compliance determination was not made: (1) Exchange Act rule 15Fh–4; (2) Exchange Act rule 15Fh–5; (3) Exchange Act rule 15Fh–6; (4) Exchange Act rule 18a–4; (5) Regulation SBSR; (6) Form SBSE and its variations; (7) Exchange Act rule 15Fh–1; (8) Exchange Act rule 15Fh–2; and (9) Exchange Act rule 15Fi–5. This proposed approach was consistent with the approach taken by the Commission in the French and UK Orders.[109] The Commission did not receive comment on these limitations and the Order includes them.[110]

Third, the Commission conditioned substituted compliance with discrete provisions of the recordkeeping, reporting, and notification requirements that were fully or partially linked to a substantive Exchange Act requirement for which substituted compliance was available on the Covered Entity applying substituted compliance with respect to the linked Exchange Act requirement.[111] In particular, substituted compliance for a provision of the recordkeeping, reporting, and notification requirements that is linked to the following Exchange Act rules was conditioned on the SBS Entity applying substituted compliance to the linked substantive Exchange Act rule: (1) Exchange Act rule 15Fh–3(h); (2) Exchange Act rule 15Fi–2; (3) Exchange Act rule 15Fi–3; (4) Exchange Act rule 15Fi–4; and (5) Exchange Act rule 15Fk–1. The Commission did not receive comment on these conditions and the Order includes them.[112]

Fourth, the Commission conditioned substituted compliance with Exchange Act rule 18a–7 on Covered Entities filing periodic unaudited financial and operational information with the Commission or its designee in the manner and format required by Commission rule or order.[113] The Commission did not receive comment on this condition and the Order includes it.[114]

Fifth, the proposed Order conditioned substituted compliance with Exchange Act rule 18a–8 on Covered entities simultaneously sending a copy of any notice required to be sent by Swiss law to the Commission in the manner specified on the Commission's website and including with the transmission the contact information of an individual who can provide further information about the matter that is the subject of the notice.[115] The Commission did not receive comment on these conditions and the Order includes them.[116]

Sixth, the proposed Order included a condition that Covered Entities must promptly furnish to a representative of the Commission upon request an English translation of any record, report, or notification of the Covered Entity that is required to be made, preserved, filed, or subject to examination pursuant to Exchange Act section 15F of this Order.[117] The Commission did not receive a comment on this condition and the Order includes it.[118]

2. Citations to Swiss Law

The Commission received comment recommending changes to the proposed Order to refine the scope of Swiss law provisions that would operate as conditions to substituted compliance.[119] The Commission staff reviewed each of the Swiss law citations that the commenter recommended adding or removing from the Order for relevance to the comparable Exchange Act requirement while also keeping in mind that each Swiss law citation was included in the Swiss Application intentionally. The Commission's conclusion and reasoning with respect to the commenter's recommendations are discussed in further detail below.

First, the commenter recommended replacing references to FMIO article 38 with FinMIA article 38 in paragraphs (d)(1)(i)(E) and (d)(1)(i)(G) of the Order, because FinMIA article 38 covers recordkeeping duties of Covered Entities while FMIO article 38 is a provision that applies to organized trading facilities. The Commission agrees with the commenter's reasoning and is therefore replacing references to FMIO article 38 with FinMIA article 38 in paragraphs (d)(1)(i)(E) and (d)(1)(i)(G) of the Order.[120]

Second, the commenter recommended deleting from paragraphs (d)(1)(i)(H) and (d)(2)(i)(H) of the Order references to CO article 330a, which provides for an employee's right to obtain a letter of

[103] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45778.

[104] *See, e.g.,* Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25194, 25199–200 (May 2, 2014).

[105] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45778.

[106] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45778.

[107] *See* paras. (d)(1)(i) and (d)(2)(ii) of the Order.

[108] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45778 (discussing this limitation).

[109] *See* French Substituted Compliance Order, 86 FR at 41650; UK Substituted Compliance Order, 86 FR at 45778.

[110] *See* para. (d) of the Order.

[111] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 18395 (discussing this condition).

[112] *See* para. (d)(3) of the Order.

[113] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45782 (discussing this condition).

[114] *See* para. (d)(3) of the Order.

[115] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45782 (discussing this condition).

[116] *See* para. (d)(4)(ii)(A) of the Order.

[117] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45784 (discussing this condition).

[118] *See* para. (d)(7) of the Order.

[119] *See* Swiss Firms' Letter at Annex.

[120] *Compare* paras. (d)(1)(i)(E) and (d)(1)(i)(G) of the Swiss Substituted Compliance Notice and Proposed Order, *with* paras. (d)(1)(i)(E) and (d)(1)(i)(G) of the Order.

recommendation, reasoning that this Swiss law provision does not directly apply to records, and that this provision only concerns rights arising out of employment relationships under Swiss law and is not applicable outside of Switzerland. Even though CO article 330a is not a direct recordkeeping requirement, in practice it requires Swiss firms to maintain employment records that are relevant to Exchange Act rules 18a–5(b)(8) and 18a–6(d)(1), so the Commission is not removing references to this requirement from the Order's list of Swiss requirements comparable to Exchange Act rules 18a–5(b)(8) and 18a–6(d)(1).[121]

Third, the commenter recommended deleting from paragraph (d)(2)(i)(G)(*1*) of the Order references to CO article 686, which requires firms to preserve a register of registered shares for ten years, reasoning that this Swiss law provision only applies to shares of companies incorporated in Switzerland. The Commission expects the firms relying on the Order to be incorporated in Switzerland, so the Commission is not removing references to this requirement from the Order's list of Swiss requirements comparable to Exchange Act rules 18a–6(c).[122]

Fourth, the commenter recommended replacing references to FINMA Circular 2008/21 margin 131 with FINMA Circular 2008/21 margin 132 in paragraph (d)(2)(i)(I) of the Order, because the Swiss Application inadvertently cited to a repealed provision of Swiss law. The Commission agrees with the commenter's reasoning and is therefore replacing FINMA Circular 2008/21 margin 131 with FINMA Circular 2008/21 margin 132 in paragraph (d)(2)(i)(I) of the Order.[123]

VII. Supervisory and Enforcement Considerations

A. Proposed Approach

Exchange Act rule 3a71–6(a)(2)(i) provides that the Commission's assessments regarding the comparability of foreign requirements in part should take into account ''the effectiveness of the supervisory program administered, and the enforcement authority exercised'' by the foreign financial regulatory authority. This provision is intended to help ensure that substituted compliance is not predicated on rules that appear high-quality on paper if market participants in practice are allowed to fall short of their obligations, while also recognizing that differences among supervisory and enforcement regimes should not be assumed to reflect flaws in one regime or another. The Swiss Application accordingly included information regarding the supervisory and enforcement framework applicable to derivatives markets and market participants in Switzerland.

In proposing to grant substituted compliance in connection with the Swiss Application, the Commission preliminarily concluded that the relevant supervisory and enforcement considerations were consistent with substituted compliance. That preliminary conclusion took into account information regarding FINMAs practices supervising Covered Firms located in Switzerland, as well as their enforcement-related authority and practices.[124]

B. Commenter Views and Final Provisions

Commenters did not address the Commission's preliminary conclusions regarding supervisory and enforcement considerations, and the Commission continues to conclude that the relevant supervisory and enforcement considerations in Switzerland are consistent with substituted compliance. In particular, based on the available information regarding FINMA's authority and practices to oversee market participants' compliance with applicable requirements and to take action in the event of violations, the Commission remains of the view that, consistent with rule 3a71–6, comparability determinations reflect Swiss requirements as they apply in practice.

To be clear, the supervisory and enforcement considerations addressed by rule 3a71–6 do not mandate that the Commission make judgments regarding the comparative merits of U.S. and foreign supervisory and enforcement frameworks, or to require specific findings regarding the supervisory and enforcement effectiveness of a foreign regime. The rule 3a71–6 considerations regarding supervisory and enforcement effectiveness instead address whether comparability analyses related to substituted compliance reflect requirements that market participants must follow, and for which market participants are subject to enforcement consequences in the event of violations. Those considerations are satisfied here.

VIII. Conclusion

It is hereby determined and ordered, pursuant to rule 3a71–6 under the Exchange Act, that a Covered Entity (as defined in paragraph (e)(1) of this Order) may satisfy the requirements under the Exchange Act that are addressed in paragraphs (b) through (d) of this Order so long as the Covered Entity is subject to and complies with relevant requirements of the Swiss Confederation and with the conditions to this Order, as amended or superseded from time to time.

(a) General Conditions

This Order is subject to the following general conditions, in addition to the conditions specified in paragraphs (b) through (d):

(1) *Security-based swaps and transactions as* ''*derivatives*'' *or* ''*derivative transactions.*'' For each condition in paragraphs (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, provisions of FinMIA and FMIO, the relevant security-based swaps and security-based swap transactions are ''derivatives'' and/or ''derivative transactions'' for purposes of FinMIA article 2(c), or otherwise are described by the relevant language of that provision.

(2) ''*Counterparty*'' *status.* For each condition in paragraph (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, the provisions of FinMIA and FMIO, the Covered Entity complies with the applicable conditions of the Order regardless of whether the Covered Entity's counterparty is a ''counterparty'' for purposes of FinMIA article 93, or otherwise is described by the relevant language of that provision.

(3) *Counterparty's status as* ''*company.*'' For each condition in paragraph (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, the provisions of FMIO, the Covered Entity complies with the applicable conditions of the Order regardless of whether a Covered Entity's counterparty is a ''company'' for purposes of FMIO article 77, or otherwise is described by the relevant language of that provision.

(4) *Covered Entity as* ''*bank.*'' For each condition in paragraph (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, the provisions of the BA and BO and/or other Swiss requirements adopted pursuant to those provisions, the Covered Entity is a ''bank'' for

[121] *Compare* paras. (d)(1)(i)(H) and (d)(2)(i)(H) of the Swiss Substituted Compliance Notice and Proposed Order, *with* paras. (d)(1)(i)(H) and (d)(2)(i)(H) of the Order.

[122] *Compare* para. (d)(2)(i)(G)(*1*) of the Swiss Substituted Compliance Notice and Proposed Order, *with* para. (d)(2)(i)(G)(*1*) of the Order.

[123] *Compare* para. (d)(2)(i)(I) of the Swiss Substituted Compliance Notice and Proposed Order, *with* para. (d)(2)(i)(I) of the Order.

[124] *See* Swiss Substituted Compliance Notice and Proposed Order, 86 FR at 45784–85.

purposes of BA article 1a, or otherwise is described by the relevant language of that provision.

(5) *Covered Entity as ''systemically important.''* For each condition in paragraph (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, the provisions of the FINMA Circular 2017/1, the Covered Entity is ''systemically important'' for purposes of BA article 8(3) and article 9, or otherwise are described by the relevant language of that provision.

(6) *Covered Entity as ''category 1.''* For each condition in paragraph (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, the provisions of FINMA Circular 2017/1, the Covered Entity is supervised as ''category 1,'' as defined in BO articles 2(2) and 2(3) and BO Annex 3, or otherwise is described by the relevant language of those provisions.

(7) *''Institution-specific approach'' to operational risk quantification.* For each condition in paragraphs (b) through (d) of this Order that requires the application of, and the Covered Entity's compliance with, the provisions of FINMA Circular 2008/21 margins 45–107, the Covered Entity applies the institution-specific approach, as defined in CAO article 94, to quantifying capital requirements for operational risk, as approved by FINMA.

(8) *Memorandum of Understanding with FINMA.* The Commission and FINMA have a supervisory and enforcement memorandum of understanding and/or other arrangement addressing cooperation with respect to this Order at the time the Covered Entity complies with the relevant requirements under the Exchange Act via compliance with one or more provisions of this Order.

(9) *Notice to Commission.* A Covered Entity relying on this Order must provide notice of its intent to rely on this Order by notifying the Commission in writing. Such notice must be sent to an email address provided on the Commission's website. The notice must include the contact information of an individual who can provide further information about the matter that is the subject of the notice. The notice must identify each specific substituted compliance determination within paragraphs (b) through (d) of the Order for which the Covered Entity intends to apply substituted compliance. A Covered Entity must promptly provide an amended notice if it modifies its reliance on the substituted compliance determinations in this Order.

(10) *Notification Requirements Related to Changes in Capital.* A Covered Entity that is prudentially regulated relying on this Order must apply substituted compliance with respect to the requirements of Exchange Act rule 18a–8(c) and the requirements of Exchange Act rule 18a–8(h) as applied to Exchange Act rule 18a–8(c).

(b) Substituted Compliance in Connection With Risk Control Requirements

This Order extends to the following provisions related to risk control:

(1) *Internal risk management.* The requirements of Exchange Act section 15F(j)(2) and relevant aspects of Exchange Act rule 15Fh–3(h)(2)(iii)(I), provided that the Covered Entity is subject to and complies with the requirements of: BO article 12; FINMA Circular 2017/1 margins 9–14, 31–49, 52–76, 82–97; and FINMA Circular 2008/21 margins 45, 54–63, 65–68, 117–138.

(2) *Trade acknowledgement and verification.* The requirements of Exchange Act rule 15Fi–2, provided that the Covered Entity is subject to and complies with the requirements of FinMIA articles 108(a) and (c); and FMIO articles 95, 97, and 113(1).

(3) *Portfolio reconciliation.* The requirements of Exchange Act rule 15Fi–3, other than paragraph (c) to that rule, provided that:

(i) The Covered Entity is subject to and complies with the requirements of FINMASA article 29; FinMIA article 108(b) and (c); and FMIO articles 96, 97 and 113(1)(d);

(ii) The Covered Entity does not apply FinMIA article 108(b)'s exception for ''small non-financial counterparties'' as defined in FinMIA article 98.

(4) *Portfolio compression.* The requirements of Exchange Act rule 15Fi–4, provided that:

(i) The Covered Entity is subject to and complies with the requirements of FinMIA article 108(d); and FMIO articles 98 and 113(1)(d); and

(ii) The Covered Entity does not apply the portion of FinMIA article 108(d) that excludes application of the requirement when there are fewer than 500 non-centrally cleared OTC derivatives transactions outstanding.

(c) Substituted Compliance in Connection With Internal Supervision and Compliance Requirements and Certain Exchange Act Section 15F(j) Requirements

This Order extends to the following provisions related to internal supervision and compliance and Exchange Act section 15F(j) requirements:

(1) *Internal supervision.* The requirements of Exchange Act rule 15Fh–3(h) and Exchange Act sections 15F(j)(4)(A) and (j)(5), provided that:

(i) The Covered Entity is subject to and complies with the requirements identified in paragraph (c)(3) of this Order; and

(ii) This paragraph (c) does not extend to the requirements of paragraph (h)(2)(iii)(I) to rule 15Fh–3 to the extent those requirements pertain to compliance with Exchange Act sections 15F(j)(2), (j)(3), (j)(4)(B) and (j)(6), or to the general and supporting provisions of paragraph (h) to rule 15Fh–3 in connection with those Exchange Act sections.

(2) *Chief compliance officers.* The requirements of Exchange Act section 15F(k) and Exchange Act rule 15Fk–1, provided that:

(i) The Covered Entity complies with the requirements identified in paragraph (c)(3) of this Order;

(ii) All reports required pursuant to FINMA Circular 2017/1 margins 78–81 must also:

(A) Be provided to the Commission at least annually, and in the English language;

(B) Include a certification signed by the chief compliance officer or senior officer (as defined in Exchange Act rule 15Fk–1(e)(2)) of the Covered Entity that, to the best of the certifier's knowledge and reasonable belief and under penalty of law, the report is accurate and complete in all material respects;

(C) Address the firm's compliance with:

(i) Applicable requirements under the Exchange Act; and

(ii) The other applicable conditions to this Order in connection with requirements for which the Covered Entity is relying on this Order;

(D) Be provided to the Commission no later than 15 days following the earlier of:

(i) The submission of the report to the Covered Entity's management body; or

(ii) The time the report is required to be submitted to the management body; and

(E) Together cover the entire period that the Covered Entity's annual compliance report referenced in Exchange Act section 15F(k)(3) and Exchange Act rule 15Fk–1(c) would be required to cover.

(3) *Applicable supervisory and compliance requirements.* Paragraphs (c)(1) and (c)(2) are conditioned on the Covered Entity being subject to and complying with the following requirements: BA articles 3(2)(c) and 3f;

BO article 12 (provided that the application of BO article 12(2) includes procedures reasonably designed to address conflicts of interest that may be present with respect to associated persons being supervised); FINMA Circular 2017/1 articles 9–97; FINMA Circular 2008/21 margins 54–62, 65–68, 121–122, and 128–136.5; FINMA Circular 2013/8 margins 45–61, 64; FINMA Circular 2010/1 margins 16–74; FINMA Circular 2018/3 margins 14–35; and (where applicable) FinSA article 25.

(4) *Additional condition to paragraph (c)(1).* Paragraph (c)(1) further is conditioned on the requirement that the Covered Entity complies with the provisions specified in paragraph (c)(3) as if those provisions also require compliance with:

(i) Applicable requirements under the Exchange Act; and

(ii) The other applicable conditions to this Order in connection with requirements for which the Covered Entity is relying on this Order.

(d) Substituted Compliance in Connection With Recordkeeping, Reporting, and Notification Requirements

This Order extends to the following provisions that apply to a Covered Entity related to recordkeeping, reporting, and notification:

(1)(i) *Make and keep current certain records.* The requirements of the following provisions of Exchange Act rule 18a–5, provided that the Covered Entity complies with the relevant conditions in this paragraph (d)(1)(i) and with the applicable conditions in paragraph (d)(1)(ii):

(A) The requirements of Exchange Act rule 18a–5(b)(1), provided that the Covered Entity is subject to and complies with the requirements of FMIO–FINMA article 1; FinMIA articles 104 and 106; FMIO annex 2; CO article 958f;

(B) The requirements of Exchange Act rule 18a–5(b)(2), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; AccO article 1; FinMIA article 106;

(C) The requirements of Exchange Act rule 18a–5(b)(3), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; FinMIA articles 104 and 106; FMIO annex 2;

(D) The requirements of Exchange Act rule 18a–5(b)(4), provided that the Covered Entity is subject to and complies with the requirements of FinMIA article 38; FMIO article 36; FinIA article 50; FMIO–FINMA article 1; CO article 958f;

(E) The requirements of Exchange Act rule 18a–5(b)(5), provided that the Covered Entity is subject to and complies with the requirements of FinMIA article 38; FinIA article 50; FMIO–FINMA article 1; CO article 958f;

(F) The requirements of Exchange Act rules 18a–5(b)(6) and (b)(11), provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of FinMIA articles 106 and 108(a); FMIO article 95; CO article 958f; and

(*2*) The Covered Entity applies substituted compliance for the requirements of Exchange Act rule 15Fi–2 pursuant to this Order;

(G) The requirements of Exchange Act rule 18a–5(b)(7), provided that the Covered Entity is subject to and complies with the requirements of FinMIA article 38; FinIA article 50; FMIO–FINMA article 1; FMIO annex 2; FinMIA articles 104 and 106; AMLA article 3; CO article 958f;

(H) The requirements of Exchange Act rule 18a–5(b)(8), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; BA article 3; BO article 12; CO article 330a; FINMA Circular 2008/21, Annex 3, margins 30–33;

(I) The requirements of Exchange Act rule 18a–5(b)(13), regarding one or more provisions of Exchange Act rules 15Fh–3 or 15Fk–1 for which substituted compliance is available under this Order, provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of FINMA Circular 2017/1; BA article 3; CO article 958f, in each case with respect to the relevant security-based swap or activity;

(*2*) With respect to the portion of Exchange Act rule 18a–5(b)(13) that relates to one or more provisions of Exchange Act rule 15Fh–3 for which substituted compliance is available under this Order, the Covered Entity applies substituted compliance for such business conduct standard(s) of Exchange Act rule 15Fh–3 pursuant to this Order, as applicable, with respect to the relevant security-based swap or activity; and

(*3*) With respect to the portion of Exchange Act rule 18a–5(b)(13) that relates to Exchange Act rule 15Fk–1, the Covered Entity applies substituted compliance for Exchange Act section 15F(k) and Exchange Act rule 15Fk–1 pursuant to this Order;

(J) The requirements of Exchange Act rule 18a–5(b)(14)(i) and (ii), provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of FinMIA articles 104 and 106; CO article 958f; and

(*2*) The Covered Entity applies substituted compliance for Exchange Act rule 15Fi–3 pursuant to this Order; and

(K) The requirements of Exchange Act rule 18a–5(b)(14)(iii), provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of FinMIA articles 104 and 106; CO article 958f; and

(*2*) The Covered Entity applies substituted compliance for Exchange Act rule 15Fi–4 pursuant to this Order.

(ii) Paragraph (d)(1)(i) is subject to the following further conditions:

(A) Paragraphs (d)(1)(i)(A) through (C) and (G) are subject to the condition that the Covered Entity preserves all of the data elements necessary to create the records required by the applicable Exchange Act rules cited in such paragraphs and upon request furnishes promptly to representatives of the Commission the records required by those rules;

(B) A Covered Entity may apply the substituted compliance determination in paragraph (d)(1)(i)(I) to records of compliance with Exchange Act rule 15Fh–3(h) in respect of one or more security-based swaps or activities related to security-based swaps; and

(C) This Order does not extend to the requirements of Exchange Act rule 18a–5(b)(9), (b)(10), or (b)(12).

(2)(i) *Preserve certain records.* The requirements of the following provisions of Exchange Act rule 18a–6, provided that the Covered Entity complies with the relevant conditions in this paragraph (d)(2)(i) and with the applicable conditions in paragraph (d)(2)(ii):

(A) The requirements of Exchange Act rule 18a–6(a)(2), provided that the Covered Entity is subject to and complies with the requirements of FinMIA article 106; CO article 958f; FMIO–FINMA article 1(4); AccO article 3; FINMA Circular 2008/4 Marg. 16;

(B) The requirements of Exchange Act rule 18a–6(b)(2)(i), provided that the Covered Entity is subject to and complies with the requirements of FinMIA article 106; CO article 958f; FMIO–FINMA article 1(4); AccO article 3; FINMA Circular 2008/4 Marg. 16;

(C) The requirements of Exchange Act rule 18a–6(b)(2)(ii), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; FINMA Circular 2013/8 Marg. 60 and Marg. 61;

(D) The requirements of Exchange Act rule 18a–6(b)(2)(iii), provided that the Covered Entity is subject to and complies with the requirements of CO

article 958f; AMLA article 7(3); AMLO–FINMA article 5(1);

(E) The requirements of Exchange Act rule 18a–6(b)(2)(iv), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; FINMA Circular 2013/8 Marg. 60 and Marg. 61;

(F) The requirements of Exchange Act rule 18a–6(b)(2)(vii), regarding one or more provisions of Exchange Act rules 15Fh–3 or 15Fk–1 for which substituted compliance is available under this Order, provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of FINMA Circular 2017/1; BA article 3; CO article 958f, in each case with respect to the relevant security-based swap or activity;

(*2*) With respect to the portion of Exchange Act rule 18a–6(b)(2)(vii) that relates to one or more provisions of Exchange Act rule 15Fh–3 for which substituted compliance is available under this Order, the Covered Entity applies substituted compliance for such business conduct standard(s) of Exchange Act rule 15Fh–3 pursuant to this Order, as applicable, with respect to the relevant security-based swap or activity; and

(*3*) With respect to the portion of Exchange Act rule 18a–6(b)(2)(vii) that relates to Exchange Act rule 15Fk–1, the Covered Entity applies substituted compliance for Exchange Act section 15F(k) and Exchange Act rule 15Fk–1 pursuant to this Order;

(G) The requirements of Exchange Act rule 18a–6(c), provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of BA article 3; BO article 12; CO articles 686 and 958f; and

(*2*) This Order does not extend to the requirements of Exchange act rule 18a–6(c) relating to Forms SBSE, SBSE–A, SBSE–C, SBSE–W, all amendments to these forms, and all other licenses or other documentation showing the registration of the Covered Entity with any securities regulatory authority or the U.S. Commodity Futures Trading Commission;

(H) The requirements of Exchange Act rule 18a–6(d)(1), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; BA article 3; BO article 12; CO article 330a; FINMA Circular 2008/21, Annex 3, margins 30–33;

(I) The requirements of Exchange Act rule 18a–6(d)(2)(ii), provided that the Covered Entity is subject to and complies with the requirements of BA article 3; BO article 12; CO article 958f; FINMA Circular 2008/21 margins 122, 128, 132, and Appendix 2;

(J) The requirements of Exchange Act rule 18a–6(d)(3)(ii), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; BA article 3; BO article 12;

(K) The requirements of Exchange Act rule 18a–6(d)(4) and (d)(5), regarding one or more provisions of Exchange Act rules 15Fi–3 or 15Fi–4 for which substituted compliance is available under this Order, provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of CO article 958f; FinMIA article 106;

(*2*) With respect to the portion of Exchange Act rule 18a–6(d)(4) and (d)(5) that relates to Exchange Act rules 15Fi–3 or 15Fi–4, the Covered Entity applies substituted compliance for Exchange Act rules 15Fi–3 and 15Fi–4 pursuant to this Order; and

(*3*) This Order does not extend to the requirements of Exchange Act rule 18a–6(d)(4) and (d)(5) relating to Exchange Act rule 15Fi–5;

(L) The requirements of Exchange Act rule 18a–6(e), provided that the Covered Entity is subject to and complies with the requirements of AccO; and

(M) The requirements of Exchange Act rule 18a–6(f), provided that the Covered Entity is subject to and complies with the requirements of FINMA Circular 2018/3.

(ii) Paragraph (d)(2)(i) is subject to the following further conditions:

(A) A Covered Entity may apply the substituted compliance determination in paragraph (d)(2)(i)(F) to records related to Exchange Act rule 15Fh–3(h) in respect of one or more security-based swaps or activities related to security-based swaps; and

(B) This Order does not extend to the requirements of Exchange Act rule 18a–6(b)(2)(v), (b)(2)(vi), or (b)(2)(viii).

(3) *File Reports.* The requirements of Exchange Act rule 18a–7(a)(2) and the requirements of Exchange Act rule 18a–7(j) as applied to the requirements of Exchange Act rule 18a–7(a)(2), provided that:

(i) The Covered Entity is subject to and complies with the requirements of BA article 6a; BO article 32; CAO article 16; FINMA Circular 2020/1; and FINMA Circular 2016/1; and

(ii) The Covered Entity files periodic unaudited financial and operational information with the Commission or its designee in the manner and format required by Commission rule or order and presents the financial information in the filing in accordance with generally accepted accounting principles that the Covered Entity uses to prepare general purpose publicly available or available to be issued financial statements in Switzerland.

(4)(i) *Provide Notification.* The requirements of the following provisions of Exchange Act rule 18a–8, provided that the Covered Entity complies with the relevant conditions in this paragraph (d)(4)(i) and with the applicable conditions in paragraph (d)(4)(ii):

(A) The requirements of Exchange Act rule 18a–8(c) and the requirements of Exchange Act rule 18a–8(h) as applied to the requirements of Exchange Act rule 18a–8(c), provided that the Covered Entity is subject to and complies with the requirements of FINMASA article 29(2); CAO articles 14, 42(3), 101, and 130(4); and Liquidity Ordinance articles 17b, and 26(2).

(B) The requirements of Exchange Act rule 18a–8(d) and the requirements of Exchange Act rule 18a–8(h) as applied to the requirements of Exchange Act rule 18a–8(d), provided that:

(*1*) The Covered Entity is subject to and complies with the requirements of FINMASA article 29(2); CAO articles 14, 42(3), 101, and 130(4); and Liquidity Ordinance articles 17b, and 26(2); and

(*2*) This Order does not extend to the requirements of Exchange Act rule 18a–8(d) to give notice with respect to books and records required by Exchange Act rule 18a–5 for which the Covered Entity does not apply substituted compliance pursuant to this Order;

(ii) Paragraph (d)(4)(i) is subject to the following further conditions:

(A) The Covered Entity:

(*1*) Simultaneously sends a copy of any notice required to be sent by Swiss law cited in this paragraph of the Order to the Commission in the manner specified on the Commission's website; and

(*2*) Includes with the transmission the contact information of an individual who can provide further information about the matter that is the subject of the notice; and

(B) This Order does not extend to the requirements of paragraph (g) of rule 18a–8 or to the requirements of Exchange Act rule 18a–8(h) as applied to such requirements.

(5) *Daily Trading Records.* The requirements of Exchange Act section 15F(g), provided that the Covered Entity is subject to and complies with the requirements of CO article 958f; FMIO article 36; FMIO–FINMA article 1; FinMIA articles 38, 104, and 106; FINMA Circular 2013/8 marg. 60 and marg. 61.

(6) *Examination and Production of Records.* Notwithstanding the forgoing provisions of paragraph (d) of this Order, this Order does not extend to, and Covered Entities remain subject to, the requirement of Exchange Act section

15F(f) to keep books and records open to inspection by any representative of the Commission and the requirement of Exchange Act rule 18a–6(g) to furnish promptly to a representative of the Commission legible, true, complete, and current copies of those records of the Covered Entity that are required to be preserved under Exchange Act rule 18a–6, or any other records of the Covered Entity that are subject to examination or required to be made or maintained pursuant to Exchange Act section 15F that are requested by a representative of the Commission.

(7) *English Translations.* Notwithstanding the forgoing provisions of paragraph (d) of this Order, to the extent documents are not prepared in the English language, Covered Entities must promptly furnish to a representative of the Commission upon request an English translation of any record, report, or notification of the Covered Entity that is required to be made, preserved, filed, or subject to examination pursuant to Exchange Act section 15F of this Order.

(e) Definitions

(1) ''Covered Entity'' means an entity that:

(i) Is a security-based swap dealer registered with the Commission;

(ii) Is not a ''U.S. person,'' as that term is defined in rule 3a71–3(a)(4) under the Exchange Act;

(iii) Is a systemically important bank authorized by FINMA to conduct banking activities in the Swiss Confederation; and

(iv) Is supervised by FINMA under the intensive and continual supervision model as a Category 1 firm as that term is defined in BO Annex 3.

(2) ''AccO'' means the Ordinance on the Maintenance and Retention of Accounts (Accounts Ordinance), CC 221.431, as amended from time to time.

(3) ''AMLA'' means the Federal Act on Combating Money Laundering and Terrorist Financing (Anti-Money Laundering Act), CC 955, as amended from time to time.

(4) ''AMLO–FINMA'' means the Ordinance of the Swiss Financial Market Supervisory Authority on the Prevention of Money Laundering and the Financing of Terrorist Activities (FINMA Anti-Money Laundering Ordinance), CC 955.033.0, as amended from time to time.

(5) ''BA'' means the Federal Act on Banks and Savings Banks (Banking Act), CC 952, as amended from time to time.

(6) ''BO'' means the Ordinance on Banks and Savings Banks (Banking Ordinance), CC 952.02, as amended from time to time.

(7) ''CAO'' means the Ordinance concerning Capital Adequacy and Risk Diversification for Banks and Securities Dealers (Capital Adequacy Ordinance), CC 952.03, as amended from time to time.

(8) ''CO'' means the Federal Act on the Amendment of the Swiss Civil Code (Part Five: The Code of Obligations), CC 220, as amended from time to time.

(9) ''FinIA'' means Federal Act on Financial Institutions (Financial Institutions Act), CC 954.1, as amended from time to time.

(10) ''FINMA'' means the Swiss Financial Market Supervisory Authority.

(11) ''FINMA Circular 2008/4'' means the FINMA Circular 2008/4, Securities Journals.

(12) ''FINMA Circular 2008/21'' means the FINMA Circular 2008/21, Operational Risk—Banks.

(13) ''FINMA Circular 2010/1'' means the FINMA Circular 2010/1, Remuneration schemes.

(14) ''FINMA Circular 2013/8'' means the FINMA Circular 2013/8, Market conduct rules, Supervisory rules on market conduct in securities trading.

(15) ''FINMA Circular 2016/1'' means the FINMA Circular 2016/1, Disclosure—Banks.

(16) ''FINMA Circular 2017/1'' means the FINMA Circular 2017/1, Corporate Governance—Banks.

(17) ''FINMA Circular 2018/3'' means the FINMA Circular 2018/3, Outsourcing—Banks and Insurers.

(18) ''FINMA Circular 2020/1'' means the FINMA Circular 2020/1, Accounting—Banks.

(19) ''FINMASA'' means the Federal Act on the Swiss Financial Market Supervisory Authority (Financial Market Supervision Act), CC 956.1, as amended from time to time.

(20) ''FinMIA'' means the Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Act), CC 958.1, as amended from time to time.

(21) ''FMIO'' means the Ordinance on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Ordinance), CC 958.11, as amended from time to time.

(22) ''FMIO–FINMA'' means the Ordinance of the Swiss Financial Market Supervisory Authority on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (FINMA Financial Market Infrastructure Ordinance), CC 958.111, as amended from time to time.

(23) ''FinSA'' means the Federal Act on Financial Services (Financial Services Act), CC 950.1, as amended from time to time.

(24) ''Liquidity Ordinance'' means the Ordinance on the Liquidity of Banks.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–22475 Filed 10–14–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17217 and #17218; Pennsylvania Disaster Number PA–00116]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Pennsylvania

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Pennsylvania (FEMA–4618–DR), dated 10/08/2021.

Incident: Remnants of Hurricane Ida.

Incident Period: 08/31/2021 through 09/05/2021.

DATES: Issued on 10/08/2021.

Physical Loan Application Deadline Date: 12/07/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 07/08/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/08/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bucks, Chester, Montgomery.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000

	Percent
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17217 8 and for economic injury is 17218 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–22540 Filed 10–14–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17145 and #17146; NEW JERSEY Disaster Number NJ–00063]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of New Jersey

AGENCY: Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Jersey (FEMA–4614–DR), dated 09/05/2021.

Incident: Remnants of Hurricane Ida.

Incident Period: 09/01/2021 through 09/03/2021.

DATES: Issued on 10/07/2021.

Physical Loan Application Deadline Date: 11/04/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 06/06/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New Jersey, dated 09/05/2021, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Cape May.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–22538 Filed 10–14–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice 11563]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Greek Bible and Cultural Heritage of the Ecumenical Patriarchate'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''The Greek Bible and Cultural Heritage of the Ecumenical Patriarchate'' at the Museum of the Bible, Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–22528 Filed 10–14–21; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36543]

City Utilities of Springfield, Mo.—Acquisition Exemption—Line of BNSF Railway Company in Greene County, Mo.

City Utilities of Springfield, Mo. (City Utilities) has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from BNSF Railway Company approximately 1.24 miles of rail line extending from approximately milepost 248.86 to approximately milepost 250.1, in Greene County, Mo. (the Line).

City Utilities states that it acquired title to the Line and other track from the Burlington Northern Railroad Company (BN) through deeds dated January 15, 1986, and July 21, 1987, and that BN, and subsequently BNSF Railway Company, provided rail operations over the Line to deliver coal to City Utilities' James River Power Station (JRPS) until that facility ceased burning coal in 2015.[1] City Utilities states that it recently discovered, as part of its due diligence in converting the right-of-way into a multi-use recreational trail, that it inadvertently neglected to seek acquisition authority for the Line from the ICC when it acquired the Line from BN. City Utilities now seeks after-the-fact Board authorization for its prior acquisition of the Line.[2]

City Utilities certifies that there will be no rail operations over the Line and, as such, annual revenues generated by City Utilities from the Line will not exceed levels that would result in City Utilities becoming a rail carrier under any of the thresholds set forth in 49 CFR part 1201. Also, City Utilities certifies that no agreements conveying the Line from BN to City Utilities involved any provisions that limited future interchange with a third-party connecting carrier.

The transaction will become effective on October 30, 2021 (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption

[1] According to City Utilities, in 1983, BN abandoned a portion of rail line that extended between milepost 250.1 and milepost 257.6 but did not remove the tracks beyond milepost 250.83. *See Burlington N. R.R.—Aban.—in Christian & Greene Cntys., Mo.,* AB 6 (Sub-No. 148) (ICC served July 15, 1983). City Utilities states that, consequently, the track it acquired from BN consisted of both abandoned track and track—*i.e.,* the Line—that was still subject to the jurisdiction of the Board's predecessor, the Interstate Commerce Commission (ICC).

[2] Citing *Cattaraugus Local Development Corp.—Abandonment Exemption—in Cattaraugus County, N.Y.,* AB 1300X et al. (STB served Aug. 5, 2020), City Utilities states that it intends to seek authorization from the Board to abandon the Line.

is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than October 22, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36543, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on City Utilities' representative, Thomas W. Wilcox, Law Office of Thomas W. Wilcox, LLC, 1629 K Street NW, Suite 300, Washington, DC 20006.

According to City Utilities, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: October 12, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2021–22534 Filed 10–14–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Meeting/Notice of Availability for Proposed Air Tour Management Plan at Golden Gate National Recreation Area; Muir Woods National Monument; San Francisco Maritime National Historical Park; and Point Reyes National Seashore

AGENCY: Federal Aviation Administration (FAA), Transportation.

ACTION: Public meeting/notice of availability for draft Air Tour Management Plan at the Golden Gate National Recreation Area; Muir Woods National Monument; San Francisco Maritime National Historical Park; and Point Reyes National Seashore.

SUMMARY: The FAA, in cooperation with the National Park Service (NPS), has initiated development of a combined Air Tour Management Plan (ATMP) for the Golden Gate National Recreation Area, Muir Woods National Monument, San Francisco Maritime National Historical Park, and Point Reyes National Seashore (collectively referred to as the Parks) pursuant to the National Parks Air Tour Management Act of 2000 (the Act) and its implementing regulations. The Act requires that in developing an ATMP for a national park or tribal lands, the FAA and the NPS must hold at least one public meeting with interested parties. In addition, the Act requires that the ATMPs be published in the **Federal Register** for notice and comment and that copies be made available to the public. This notice announces the public availability of the proposed ATMP for comment and the public meeting for the Parks. The purpose of this meeting is to review the proposed ATMP and further ATMP development with the public.

In accordance with Section 106 of the National Historic Preservation Act, the FAA and the NPS are also seeking public comment on the potential of the proposed ATMP to cause adverse effects to historic properties.

DATES:

Comment Period: Comments must be received on or before 30 days from this notice. Comments will be received on the NPS Planning, Environment and Public Comment System (PEPC) website. The PEPC website for the Parks is: *https://parkplanning.nps.gov/BayAreaATMP*.

Meeting: The meeting will be held at the following date and time:

- Tuesday, October 26, 2021 (4:30–6:00 p.m. PT).

Livestream: https://youtu.be/vVlOC2ovidA.

ADDRESSES: The meeting will be held virtually. Members of the public who wish to observe the virtual meeting can access the livestream from the following FAA social media platforms on the day of the event, *https://www.facebook.com/FAA, https://twitter.com/FAANews,* and *https://www.youtube.com/FAAnews.*

FOR FURTHER INFORMATION CONTACT: Any request for reasonable accommodations should be sent to the person listed on the Parks' PEPC site, or call Keith Lusk at (424) 405–7017.

SUPPLEMENTARY INFORMATION: The FAA is issuing this notice pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181 (*https://www.govinfo.gov/link/plaw/106/public/181?link-type=html*)) and its implementing regulations contained in Title 14, Code of Federal Regulations, Part 136, Subpart B, National Parks Air Tour Management. The objective of any ATMP must be to provide acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands. Further, an ATMP must comply with National Environmental Policy Act (NEPA) and its accompanying regulations and the Act designates the FAA as the lead agency for that purpose. The FAA and the NPS are inviting comment from the public, Federal and state agencies, tribes, and other interested parties on the proposed ATMP for the Golden Gate National Recreation Area, Muir Woods National Monument, San Francisco Maritime National Historical Park, and Point Reyes National Seashore. Any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the ATMP applies, will be invited to participate in the NEPA process as a cooperating agency.

The FAA and the NPS have determined that each ATMP constitutes a Federal undertaking subject to compliance with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR part 800). The FAA and the NPS are consulting with tribes, State and Tribal Historic Preservation Officers, and other interested parties to identify historic properties and assess the potential effects of the ATMP on them.

The meeting will be open to the public and livestreamed. Members of the public who wish to observe the virtual meeting can access the livestream from the following FAA social media platforms on the day of the event, *https://www.facebook.com/FAA* (*https://www.facebook.com/FAA*), *https://twitter.com/FAANews* (*https://twitter.com/FAANews*), and *https://www.youtube.com/FAAnews* (*https://www.youtube.com/FAAnews*). The U.S. Department of Transportation is committed to providing equal access to the meetings for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The FAA and the NPS request that comments be as specific as possible in response to actions that are being proposed under this notice. All written comments become part of the official record. Written comments on the proposed ATMP must be submitted via PEPC or sent to the mailing address listed in the **FOR FURTHER INFORMATION CONTACT** section provided on the Parks' PEPC site. Comments will not be accepted by fax, email, or any other way than those specified above. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that

your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Documents that describe the Parks' proposed ATMP project in greater detail are available at the following locations:

- FAA Air Tour Management Plan Program website, *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/.*
- NPS Planning, Air Tours website, *https://home.nps.gov/subjects/sound/airtours.htm.*

Issued in El Segundo, CA. On October 8, 2021.

Kevin Lusk,

Program Manager, Special Programs Office, Western-Pacific Region.

[FR Doc. 2021–22461 Filed 10–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA). The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before March 14, 2022.

FOR FURTHER INFORMATION CONTACT: Kathryn Loster, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–3869 or Saadat Khan, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–9647. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions subject to 23 U.S.C. 139(l) by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project file for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.transit.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) requirements [23 U.S.C. 138, 49 U.S.C. 303], section 106 of the National Historic Preservation Act [54 U.S.C. 306108], Endangered Species Act [16 U.S.C. 1531], Clean Water Act [33 U.S.C. 1251], the Uniform Relocation and Real Property Acquisition Policies Act [42 U.S.C. 4601], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice follow:

1. *Project name and location:* Illinois Terminal Expansion Project, Champaign County, Illinois. *Project Sponsor:* Champaign-Urbana Mass Transit District (MTD), Urbana, Illinois. *Project description:* The project involves Illinois Terminal expansion on parcels north of Logan Street, construction of dedicated intercity and rural bus platforms to reduce bus congestion, construction of controlled pedestrian access to bus platforms, and visibility improvements. The project also includes interior renovation and expansion of the Illinois Terminal including waiting areas, passenger amenities and creating green space. *Final agency action:* Section 106 no adverse effect determination, dated March 24, 2021; Illinois Terminal Expansion Finding of No Significant Impacts (FONSI), dated September 2, 2021. *Supporting documentation:* Illinois Terminal Expansion Environmental Assessment (EA), dated, May 25, 2021. The EA, FONSI and associated documents can be viewed and downloaded from: *https://mtd.org/inside/projects/illinois-terminal-expansion/.*

2. *Project name and location:* Rush Line Bus Rapid Transit (BRT) Project, Ramsey County, Minnesota. *Project Sponsor:* Ramsey County Regional Railroad Authority, Saint Paul, Minnesota. *Project description:* The Rush Line BRT Project is a 15-mile BRT route connecting Saint Paul, Maplewood, White Bear Township, Vadnais Heights, Gem Lake and White Bear Lake. The BRT route will operate in both a dedicated guideway and mixed traffic along Robert Street, Jackson Street, Phalen Boulevard, Ramsey County rail right-of-way and Highway 6. The project involves construction of 21 stations consisting of: Station platforms; shelters; ticket machines for off-board fare purchase; real-time bus schedule information; bicycle parking; on-demand heat; trash and recycling bins; emergency telephones; security cameras; energy-efficient LED station lighting; and information about the station, route, transit system and neighborhood. The project would also serve one existing park-and-ride at the Maplewood Mall Transit Center, and include construction of two park-and-rides facilities at Highway 36 and County Road E.

Final agency actions: Section 4(f) individual use and *de minimis* impact determination; Section 106 Memorandum of Agreement, dated October 1, 2021; and Rush Line Bus Rapid Transit (BRT) Project Finding of No Significant Impacts (FONSI), dated October 05, 2021. Supporting documentation: Rush Line Bus Rapid Transit (BRT) Project Environmental Assessment (EA), dated, May 11, 2021. The EA, FONSI and associated documents can be viewed and downloaded from: *https://www.ramseycounty.us/residents/roads-transportation/transit-corridors-studies/rush-line-brt-project/environmental-process.*

3. *Project name and location:* Penn Station Access Project, New York City and New Rochelle, New York. *Project Sponsor:* Metropolitan Transportation Authority (MTA), New York, New York. *Project description:* The project will provide new rail service from New Haven, Connecticut to Penn Station New York (PSNY) in Manhattan by utilizing Amtrak's Hell Gate Line (HGL) on the Northeast Corridor (NEC), through the eastern Bronx and western Queens. The project will make infrastructure improvements on the HGL beginning in southeastern Westchester County and extending to Harold Interlocking in Queens, joining the MTA Long Island Rail Road (LIRR) Main Line. The project also involves construction of four new Metro-North stations in the eastern Bronx at Hunts Point, Parkchester-Van Nest, Morris Park, and Co-op City. *Final agency action:* Section 4(f) *de minimis* impact determination; Section 106

Programmatic Agreement, dated September 24, 2021; Penn Station Access Project Finding of No Significant Impacts (FONSI), dated September 24, 2021. *Supporting documentation:* Penn Station Access Project Environmental Assessment (EA), dated May 13, 2021. The EA, FONSI and associated documents can be viewed and downloaded from: *https://pennstationaccess.info/environmental-assessment.*

Authority: 23 U.S.C. 139(l)(1).

Mark A. Ferroni,

Deputy Associate Administrator for Planning and Environment.

[FR Doc. 2021–22507 Filed 10–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0054; Notice 2]

Notice of Grant of Petition for Decision That Nonconforming Model Year 2019 Schuler Spezialfahrzeuge GmbH Trailer Is Eligible for Importation

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

ACTION: Grant of petition.

SUMMARY: This document announces the National Highway Traffic Safety Administration's (NHTSA's) grant of a petition for a decision that a model year (MY) 2019 Schuler Spezialfahrzeuge GmbH trailer that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) is eligible for importation into the United States because it is capable of being readily altered to conform with all applicable Federal Motor Vehicle Safety Standards (FMVSS).

FOR FURTHER INFORMATION CONTACT: Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202–366–1012).

SUPPLEMENTARY INFORMATION:

I. Background

A motor vehicle that was not originally manufactured to conform to all applicable FMVSS may be eligible for import into the United States if NHTSA determines that the motor vehicle is capable of being readily altered to conform to all applicable FMVSS. *See* 49 U.S.C. 30141(a). ''[I]f there is no substantially similar United States motor vehicle,'' NHTSA may determine that ''the safety features of the vehicle comply with or are capable of being altered to comply with those standards based on destructive test information or other evidence the Secretary of Transportation decides is adequate.'' *Id.* 30141(a)(1)(B). The term ''motor vehicle'' includes trailers that ''are manufactured primarily for use on public streets, roads, and highways.'' *See id.* 30102(a)(7). If NHTSA determines that a nonconforming vehicle is import eligible, any such nonconforming vehicle imported into the United States must be modified into conformance and certified as conforming by a registered importer before it is sold or otherwise released from the custody of the registered importer. 49 U.S.C. 30146(a)(1); 49 CFR 592.6.[1]

Petitions for import eligibility decisions may be submitted by either manufacturers or registered importers and must comply with the requirements set forth in 49 CFR 593.6. A petition based on the capability of the vehicle to comply with all applicable FMVSS include, among other things, ''data, views, and arguments demonstrating that the vehicle [which is the subject of the petition] has safety features that comply with or are capable of being modified to conform with such standard.'' *Id.* 593.6(b)(2). ''The latter demonstration [must] include a showing that after such modifications, the features will conform with such standard.'' *Id.*

As specified in 49 CFR 593.7, NHTSA publishes notice of each petition that it receives in the **Federal Register** and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides whether the vehicle is eligible for importation based on the petition, its review of any comments received, and the agency's own analysis. NHTSA will grant a petition for import eligibility if it ''determines that the petition clearly demonstrates that the vehicle model is eligible for importation'' and will deny the petition if it ''determines that the petition does not clearly demonstrate that the vehicle model is eligible for importation.'' 49 CFR 593.7(e)–(f). NHTSA then publishes its decision and the reasons for it in the **Federal Register**. *Id.*

II. Discussion of Petition

Skytop Rover Co., Inc., (Registered Importer R–6–343), of Philadelphia, Pennsylvania has petitioned NHTSA to decide whether a nonconforming MY 2019 Schuler Spezialfahrzeuge GmbH trailer (the Subject Vehicle) is eligible for importation into the United States. Petitioner contends the Subject Vehicle's ''safety features comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards.'' Petitioner states the Subject Vehicle ''is a custom-built trailer made in Germany by Schuler Spezialfahrzeuge GmbH'' and ''there is no substantially similar trailer for comparison purposes.'' [2] Petitioner states the Gross Vehicle Weight Rating (GVWR) of the Subject Vehicle is 60,295 lbs. (27,349 kg).

Petitioner states that the Subject Vehicle ''was developed and manufactured using 'off the shelf' DOT compliant components'' and ''has safety features which comply with or are capable of being modified to conform to all applicable Federal motor vehicle safety standards.'' Petitioner contends that the Subject Vehicle, as originally manufactured, complies with or is not subject to FMVSS Nos. 108 (Lamps, Reflective Devices and Associated Equipment), 119 (New Pneumatic Tires), 120 (Tire and Rim Selection), 121 (Air Brake Systems), 223 (Rear Impact Guards), and 224 (Rear Impact Protection).

With respect to FMVSS No. 108 (Lamps, Reflective Devices and Associated Equipment), Petitioner claims the vehicle meets all aspects of this standard and provided photographs of the lighting and retroreflective tape on the vehicle as equipped. These photographs, however, showed no retroreflective tape applied to the upper corners of the rear extremity of the vehicle as required under this FMVSS.

With respect to FMVSS No. 119 (New Pneumatic Tires), Petitioner claims and provided photographs demonstrating that the vehicle is equipped with tires that bear the relevant ''DOT'' markings/symbols and all required information for U.S. DOT certification.

With respect to FMVSS No. 121 (Air Brake Systems), Petitioner claims the vehicle meets all aspects of this standard and provided a test report detailing the service brake and park brake actuation and release timing. The test report showed results within the requirements for brake actuation specified for this FMVSS.

With respect to FMVSS Nos. 223 (Rear Impact Guards) and 224 (Rear Impact Protection), Petitioner claims the

[1] A registered importer is an importer that has registered with NHTSA under 49 CFR part 592 and is therefore authorized to modify and then certify imported vehicles as compliant with all applicable FMVSS.

[2] Because the Subject Vehicle is a custom-built trailer, the grant of this import eligibility petition applies only to the Subject Vehicle and does not create a category of import eligible trailers or otherwise apply to any other trailers.

rearmost structural element of the trailer has a ground clearance of less than 22 inches and therefore is excluded from the requirements of a rear impact guard under FMVSS Nos. 224 and that FMVSS 223 therefore does not apply. Petitioner provided photographs depicting the measurements of the ground clearance of the rearmost structural member of the trailer that appear to support this claim.

Petitioner also contends that the Subject Vehicle is capable of meeting the requirements set forth in 49 CFR part 565 (Vehicle Identification Number Requirements) and 49 CFR part 567 (Certification) by affixing a certification label to the trailer on the ''Left Front Half at Shoulder Height'' that contains the VIN number of the Subject Vehicle.

III. Public Comments

A Notice of Receipt of the Petition was published in the **Federal Register** for public comment for a period of 30 days. 86 FR 48476 (Aug. 30, 2021). No public comment was submitted in response to the Notice of Receipt.

IV. NHTSA'S Analysis

A petition to determine import eligibility must include all information required under the applicable authorities and must also include data, views, and arguments demonstrating the conclusions advanced by the petition. In this case, the Petition includes information demonstrating that the following FMVSS requirements are met by the Subject Vehicle as manufactured.

FMVSS No. 119 (New Pneumatic Tires)—Petitioner has shown the vehicle, as manufactured, is equipped with compliant tires, by direct inspection and submitted photographs depicting tires that bear the relevant ''DOT'' markings/symbols and all required information for U.S. DOT certification.

FMVSS No. 121 (Air Brake Systems)—Petitioner has shown the vehicle, as manufactured, is equipped with a compliant braking system, by direct inspection, submitted photographs, and a service brake and park brake actuation and release timing test report, which demonstrated that the results are within the required specifications for compliance.

FMVSS Nos. 223 (Rear Impact Guards) and 224 (Rear Impact Protection)—Petitioner has shown the vehicle meets the definition of a ''[l]ow chassis vehicle'' and is excluded from requiring a rear impact guard per the requirements of FMVSS No. 224 and that FMVSS No. 223 is therefore not applicable to the Subject Vehicle, by submitting photographs depicting a ground clearance of the rear most structural member within 12 inches of the rear of the trailer to be less than 22 inches above ground.

Petitioner also demonstrated that the Subject Vehicle, as manufactured, is capable of being modified to conform to FMVSS No. 108 (Lamps, Reflective Devices and Associated Equipment). Although Petitioner failed to demonstrate the Subject Vehicle meets the requirements for retroreflective tape on the back of the vehicle, NHTSA concludes that the vehicle is capable of being modified to meet these requirements with the addition of retroreflective tape in the location specified in the standard. Petitioner has shown the Subject Vehicle meets all other lighting and conspicuity requirements of the standard, by submitting photographs depicting the DOT marking of the compliant lamps and the location of other retroreflective tape.

Additionally, and as stated by Petitioner, the Subject Vehicle will need to be modified to conform to the requirements set forth in 49 CFR part 565 (Vehicle Identification Number Requirements) and 49 CFR part 567 (Certification) by affixing a safety certification label to the trailer on the ''Left Front Half at Shoulder Height'' that contains the VIN number of the vehicle.

V. Agency Decision

Petitioner has demonstrated that the Subject Vehicle is either compliant with or capable of being readily altered to comply with all applicable FMVSS, and the petition is therefore granted.

Authority: 49 U.S.C. 30141(a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Joseph Kolly,

Acting Associate Administrator for Enforcement.

[FR Doc. 2021–22481 Filed 10–14–21; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been removed from the list of Specially Designated Nationals and Blocked Person (SDN List). Their property and interests in property are no longer blocked, and U.S. persons are no longer prohibited from engaging in lawful transactions with them.

DATES: See Supplementary Information section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea M. Gacki, Director, tel.: 202–622–2480; Associate Director for Global Targeting, tel: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On October 8, 2021, OFAC determined that circumstances no longer warrant the inclusion of the following persons on the SDN List and that their property and interests in property are no longer blocked under the relevant sanctions authorities listed below.

Entities

1. MAMMUT INDUSTRIAL GROUP P.J.S (a.k.a. MAMMUT INDUSTRIAL GROUP; a.k.a. MAMMUT TEHRAN INDUSTRIAL GROUP; a.k.a. ''MAMMUT INDUSTRIES''), Khaled Eslamboli Street, Seventh Street No. 7, Tehran 15875–7974, Iran; No. 65 Lofti Street, Tehran, Iran; Vozara Str, 7th Str No. 7, Tehran, Iran; website *www.mammutco.com;* Additional Sanctions Information—Subject to Secondary Sanctions; Registration Number 3167 (Iran) [NPWMD] [IFSR] (Linked To: SHAHID HEMMAT INDUSTRIAL GROUP).

Designated on September 21, 2020, pursuant to Section 1(a)(iii) of Executive Order 13382 of June 28, 2005, ''Blocking Property Weapons of Mass Destruction Proliferators and Their Supporters,'' 70 FR 38567, 3 CFR, 2006 Comp., p. 170 (E.O. 13382) for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, SHAHID HEMMAT INDUSTRIAL GROUP.

2. MAMMUT DIESEL (a.k.a. MAMMUT DIESEL COMPANY), No. 158, 14th km, Makhsoos Road, Tehran 37515–335, Iran; website *www.mammutdiesel.com;* Additional Sanctions Information—Subject to Secondary Sanctions; National ID No. 10103952900 (Iran); Registration Number 1910 (Iran) [NPWMD] [IFSR] (Linked To: MAMMUT INDUSTRIAL GROUP P.J.S).

Designated on September 21, 2020, pursuant to Section 1(a)(iv) of E.O. 13382 for being owned or controlled by, directly or indirectly, MAMMUT INDUSTRIAL GROUP P.J.S.

Dated: October 8, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021–22480 Filed 10–14–21; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Acting Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Brian Sonfield—Assistant General Counsel—Chair
2. Andrew J. Keyso, Jr., Chief, Appeals (IRS)
3. Sunita Lough—Deputy Commissioner for Services & Enforcement (IRS)

Alternate: Nikole C. Flax—Deputy Commissioner, LB&I (IRS)

This publication is required by 5 U.S.C. 4314(c)(4).

William M. Paul,

Chief Counsel (Acting), Internal Revenue Service.

[FR Doc. 2021–22525 Filed 10–14–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[4830–01–P]

Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Acting Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. William M. Paul, Acting Chief Counsel/ Deputy Chief Counsel (Technical)
2. Mark S. Kaizen, Associate Chief Counsel (General Legal Services)
3. John P. Moriarty, Associate Chief Counsel (Income Tax & Accounting)
4. Holly Porter, Associate Chief Counsel (Passthroughs & Special Industries)
5. Kathryn A. Zuba, Associate Chief Counsel (Procedure & Administration)

Alternate: Thomas J. Travers, Associate Chief Counsel (Finance & Management)

This publication is required by 5 U.S.C. 4314(c)(4).

William M. Paul,

Chief Counsel (Acting), Internal Revenue Service.

[FR Doc. 2021–22524 Filed 10–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 712, Life Insurance Statement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning life insurance statements.

DATES: Written comments should be received on or before December 14, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Kerry Dennis, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Life Insurance Statement.

OMB Number: 1545–0022.

Form Number: 712.

Abstract: Form 712 provides taxpayers and the IRS with information to determine if insurance on the decedent's life is includible in the gross estate and to determine the value of the policy for estate and gift tax purposes. The tax is based on the value of the life insurance policy.

Current Actions: There is no change in the form or paperwork burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 60,000.

Estimated Time per Respondent: 18 hrs., 40 min.

Estimated Total Annual Burden Hours: 1,120,200.

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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 12, 2021.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2021–22523 Filed 10–14–21; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 86 Friday,
No. 197 October 15, 2021

Part II

Securities and Exchange Commission

17 CFR Parts 232, 240, 249, et al.
Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 240, 249, 270, and 274

[Release Nos. 34–93169; IC–34389; File No. S7–11–21]

RIN 3235–AK67

Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is proposing to amend Form N–PX under the Investment Company Act of 1940 (''Investment Company Act'') to enhance the information mutual funds, exchange-traded funds (''ETFs''), and certain other funds currently report annually about their proxy votes and to make that information easier to analyze. The Commission also is proposing rule and form amendments under the Securities Exchange Act of 1934 (''Exchange Act'') that would require an institutional investment manager subject to the Exchange Act to report annually on Form N–PX how it voted proxies relating to executive compensation matters, as required by the Exchange Act. The proposed reporting requirements for institutional investment managers, if adopted, would complete implementation of those requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').

DATES: Comments should be received on or before December 14, 2021.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/submitcomments.htm*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–11–21 on the subject line; or

Paper Comments

- Send paper comments to, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–11–21. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's website (*http://www.sec.gov/rules/proposed.shtml*). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1580, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's public reference room. 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.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Nathan R. Schuur, Senior Counsel; Angela Mokodean, Branch Chief; or Brian M. Johnson, Assistant Director, at (202) 551–6792, Investment Company Regulation Office; Terri G. Jordan, Branch Chief, at (202) 551–6825 or *IMOCC@sec.gov,* Chief Counsel's Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing new 17 CFR 240.14Ad–1 [new rule 14Ad–1] under the Exchange Act.[1] We are also proposing amendments to the following rules and forms:

Commission reference	CFR citation [17 CFR]
Investment Company Act:	
Rule 30b1–4	§ 270.30b1–4.
Exchange Act and Investment Company Act:	
Form N–PX[2]	§§ 274.129 and 249.326.
Securities Act of 1933 (''Securities Act'')[3] and Investment Company Act:	
Form N–1A	§§ 239.15A and 274.11A.
Form N–2	§§ 239.14 and 274.11a–1.
Form N–3	§§ 239.17a and 274.11b.
Securities Act:	
Rule 101 of Regulation S–T	§ 232.101.

Table of Contents

[1] 15 U.S.C. 78a *et seq.*

[2] Form N–PX was adopted under the Investment Company Act only. In this release, we are proposing to amend Form N–PX under both the Exchange Act and the Investment Company Act. 15 U.S.C. 80a–1 *et seq.*

[3] 15 U.S.C. 77a *et seq.*

I. Introduction and Background

Mutual funds, ETFs, and other registered management investment companies (collectively, ''funds'') hold substantial institutional voting power that they exercise on behalf of millions of fund investors.[4] Funds own around 30 percent of U.S. corporate equities and in some cases funds hold a larger percent of a single company's stock.[5] As a result, funds can influence the outcome of a wide variety of matters that companies submit to a shareholder vote, including matters related to governance, corporate actions, and shareholder proposals. Funds' proxy voting decisions can play an important role in maximizing the value of their investments, affecting the more than 45 percent of U.S. households that own funds, as well as other investors in U.S. equity markets.[6]

For certain types of funds and their investors, proxy voting can have particularly heightened importance. For example, because index funds' investment policies typically do not permit them to sell investments in the relevant index, these funds cannot sell a stock if they are dissatisfied with management. Instead, index funds may use their voting power to become active in corporate governance in order to increase the value of their investments.[7] Index funds have grown significantly in recent years. Index funds make up nearly half of the assets in equity funds.[8] More generally, the net assets of index funds as a share of mutual funds and ETFs have more than doubled since 2010.[9]

Due to funds' significant voting power and the effects of funds' proxy voting practices on the actions of corporate issuers and the value of these issuers' securities, investors have an interest in how funds vote.[10] In addition, in recent years, investors have increased their focus on how funds vote on environmental, social, and governance-oriented matters (*i.e.,* ESG matters). Many funds now incorporate sustainability or other ESG factors or put these factors at the center of their investment approach.

In most cases, a fund's adviser votes proxies relating to the fund's portfolio securities on the fund's behalf.[11] Investment advisers are fiduciaries that owe duties of care and loyalty to each client.[12] To satisfy its fiduciary duty in making any voting determination on behalf of a fund, an investment adviser must make determinations in the best interest of its client. Further, an investment adviser cannot place its own interests ahead of the interests of its client.[13] An investment adviser that assumes proxy voting authority must adopt and implement policies and procedures reasonably designed to ensure it votes client securities in the best interest of clients.[14]

In 2003, the Commission adopted Form N–PX, which requires funds to report publicly their proxy voting records annually. Form N–PX is designed to improve transparency and enable fund shareholders to monitor their funds' involvement in the governance activities of portfolio companies.[15] Since its adoption, Form

[4] Mutual funds and most ETFs are open-end management investment companies registered on Form N–1A. An open-end management investment company is an investment company, other than a unit investment trust or face-amount certificate company, that offers for sale or has outstanding any redeemable security of which it is the issuer. *See* sections 4 and 5(a)(1) of the Investment Company Act [15 U.S.C. 80a–4 and 80a–5(a)(1)]. The amendments proposed in this release would also apply to registered closed-end management investment companies (which register on Form N–2) and insurance company separate accounts organized as management investment companies that offer variable annuity contracts (which register on Form N–3).

[5] ICI 2021 Fact Book, *available at https://www.ici.org/system/files/2021-05/2021_factbook.pdf,* at figure 2.7 (stating that mutual funds and other registered investment companies held 30 percent of U.S. corporate equities as of year-end 2020).

[6] *Id.,* at figure 7.1 (stating that 45.7 percent of U.S. households owned funds in 2020).

[7] *See* Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies, Investment Company Act Release No. 25922 (Jan. 31, 2003) [68 FR 6563 (Feb. 7, 2003)] (''Form N–PX Adopting Release'') at nn.17–18 and accompanying text (noting that, because passive funds have investment policies that do not permit them to sell their shares, they may become more active in corporate governance as a way to maximize value for their shareholders).

[8] *See* Kenechukwu Anadu, Mathias Kruttli, Patrick McCabe, and Emilio Osambela, ''The Shift from Active to Passive Investing: Potential Risks to Financial Stability?'', Finance and Economics Discussion Series 2018–060r1, Washington: Board of Governors of the Federal Reserve System (2020), *available at https://doi.org/10.17016/FEDS.2018.060r1* (citing statistics as of March 2020); see also ICI 2021 Fact Book, *supra* footnote 6, at figure 2.8 (stating that index funds represented 40% of the mutual fund and ETF market, excluding money market funds, in 2020).

[9] *See* ICI 2021 Fact Book, *supra* footnote 5, at figure 2.8 (noting index fund growth as a share of the mutual fund and ETF market between 2010 and 2020, excluding money market funds).

[10] Some investors review funds' voting practices by accessing Form N–PX reports directly on EDGAR, while others may obtain information about funds' voting practices through analysis or synthesis of Form N–PX reports by data aggregators or others. A variety of market participants and other stakeholders also use data reported on Form N–PX. *See infra* Section IV.C.1.a.

[11] *See* Form N–PX Adopting Release, *supra* footnote 7, at nn.11–13 and accompanying text (recognizing that while the fund's board of directors, acting on the fund's behalf, has the right and the obligation to vote proxies relating to the fund's portfolio securities, this function is typically delegated to the fund's investment adviser).

[12] Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Investment Advisers Act Release No. 5248 (June 5, 2019) [84 FR 33669 (July 12, 2019)] (''2019 Fiduciary Interpretation'').

[13] Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers, Investment Advisers Act Release No. 5325 (Aug. 21, 2019) [85 FR 55155 (Sept. 3, 2019)] (''Proxy Voting Interpretation'').

[14] *See* 17 CFR 275.206(4)–6.

[15] *See* Form N–PX Adopting Release, *supra* footnote 7, at paragraph accompanying n.34. Although the Commission proposed to require funds to disclose their proxy voting records in their annual and semiannual shareholders reports, after considering comments, the Commission adopted a separate form—Form N–PX—for funds to use in filing this information with the Commission. *See id.* at Section II.B. In the same release, the Commission also adopted amendments to require funds to

Continued

N–PX has advanced transparency into fund voting. However, these reports can be difficult for investors to use and can provide an incomplete picture of a fund's voting practices.

Investors may face difficulties using Form N–PX reports to find a particular fund's voting record, find a specific vote or type of vote that is of interest, or compare funds' voting records for several reasons. First, the organization and presentation of funds' proxy voting records in Form N–PX reports can vary significantly. For example, funds may provide unclear and inconsistent descriptions of voting matters (*e.g.,* by using abbreviations or other shorthand). As another example, although the instructions to the form require separate presentations for each fund, some funds interpret this requirement as providing flexibility to organize voting information first by security, with each fund holding that security listed separately.[16] As a result, a given fund's voting record can be spread throughout the report instead of presented together in one place. Second, Form N–PX reports can be overwhelmingly long due to the number of voting matters and funds the reports often cover.[17] A single fund may own hundreds of securities, each of which may have ten or more proposals each year, and a single Form N–PX report often includes information about several different funds' voting records.[18] Third, reports on Form N–PX are not currently filed in a machine readable, or ''structured,'' data language. This can make it more difficult for investors to analyze efficiently the reported data, particularly in light of the inconsistencies and length of Form N–PX reports.[19]

In addition to difficulties in accessing and analyzing the data provided on Form N–PX, certain gaps in the required disclosure may result in an incomplete picture of a fund's proxy voting practices. Funds commonly engage in securities lending activities to generate additional revenue for the fund.[20] When a fund lends its portfolio securities, it transfers incidents of ownership relating to the loaned securities, including proxy voting rights, for the duration of the loan. As a result, while the securities are on loan, the fund is not able to vote the proxies of such securities. If a fund determines that it wants to vote loaned securities, it must recall the securities and receive them prior to the record date for the vote. Recalling loaned securities may decrease the revenue a fund generates from securities lending activity. The decision of whether to recall a security on loan to vote it is not currently disclosed on Form N–PX, although some investors have expressed interest in information about the relationship between a fund's securities lending and proxy voting.[21]

To improve the utility of Form N–PX information for investors, we are proposing amendments to enhance the information funds currently report about their proxy votes on Form N–PX and to make that information easier to analyze. For example, we are proposing to require funds to tie the description of the voting matter to the issuer's form of proxy and to categorize voting matters by type. We are also proposing to require reporting of information on Form N–PX in a structured data language either via a Commission-supplied web-based form or as an Extensible Markup Language (''XML'') file.[22] In addition, we are proposing to require disclosure of the number of shares that were voted (or, if not known, the number of shares that were instructed to be cast) and the number of shares that were loaned and not recalled. To enhance investors' access to funds' proxy voting records, we also are proposing to require a fund to provide its voting record on (or through) its website.

In addition to proposing to amend Form N–PX to enhance disclosure of funds' proxy voting records, we are proposing rule and form changes to require an institutional investment manager subject to section 13(f) reporting requirements (''manager'') to report annually on Form N–PX how it voted proxies relating to shareholder advisory votes on executive compensation (or ''say-on-pay'') matters.[23] Similar to funds, managers have substantial voting power. As of March 31, 2021, managers exercised investment discretion over approximately $39.79 trillion in section 13(f) securities.[24] This aspect of the

disclose the policies and procedures they use to determine how to vote proxies. In that release, the Commission discussed several benefits of providing transparency on how funds vote, including illuminating potential conflicts of interest, discouraging voting that is inconsistent with fund shareholders' best interests, and encouraging funds to become more engaged in corporate governance of issuers held in their portfolios. *Id.* at Section I.

[16] Many fund complexes include information about several different funds in a single Form N–PX report, given the structure of many funds as series of a trust. *See* Instruction 1 to current Form N–PX (''In the case of a registrant that offers multiple series of shares, provide the information required by this Item separately for each series. The term 'series' means shares offered by a registrant that represent undivided interests in a portfolio of investments and that are preferred over all other series of shares for assets specifically allocated to that series in accordance with Rule 18f–2(a) under the Act (17 CFR 270.18f–2(a)).'').

[17] Based on staff analysis of reports on Form N–PX, larger funds can have filings in excess of 1,000 pages.

[18] For example, during the 2017 proxy season, funds cast more than 7.6 million votes for proxy proposals, and the average fund voted on 1,504 separate proxy proposals for U.S. listed portfolio companies. Letter dated Mar. 15, 2019, from Paul Schott Stevens, President and CEO, Investment Company Institute, submitted in response to the Statement Announcing SEC Staff Roundtable on the Proxy Process, *available at https://www.sec.gov/comments/4-725/4-725.htm.*

[19] While some structured data is available commercially, investors seeking to use this information may incur costs, as well as potential limits on the comprehensiveness and timeliness of available information.

[20] According to Form N–CEN filings, 67.2% of funds were authorized to engage in securities lending in their most recent fiscal year, and 40.2% of funds reported lending securities over that same period. These funds reported, in the aggregate, net income from securities lending of $2.663 billion. *See also* Reena Aggarwal et al., *The Role of Institutional Investors in Voting,* J. of Finance, at 2310 (2015) (noting that ''[m]ost large pension funds, mutual funds, and other institutional investors have a lending program and consider it an important source of revenue, with estimates of $800 million in annual revenue for pension funds.'').

[21] *See, e.g.,* Letter of the Shareowner Education Network (Oct. 20, 2010) (File No. S7–14–10) (''Shareowner Education Letter on Concept Release'') (''Funds should disclose all aspects of securities lending that affect their investors, such as the number of shares on loan over the record date and lending fees, as well as the number of shares from any other missed voting opportunities and the actual number of shares that were voted for each meeting. This information is important to investors who are monitoring the stewardship responsibilities of funds.''). *See also infra* footnote 99.

[22] *Cf.* Recommendations of the Investor Advisory Committee Regarding the SEC and the Need for the Cost Effective Retrieval of Information by Investors (adopted July 25, 2013), *available at https://www.sec.gov/spotlight/investor-advisory-committee-2012/data-tagging-resolution-72513.pdf,* at 5 (recommending amendments to Form N–PX to provide for the tagging of data).

[23] The term ''institutional investment manager'' includes any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person. *See* section 13(f)(6)(A) of the Exchange Act [15 U.S.C. 78m(f)(6)]. The term ''person'' includes any natural person, company, government, or political subdivision, agency, or instrumentality of a government. *See* section 3(a)(9) of the Exchange Act [15 U.S.C. 78c(a)(9)]. Entities serving as managers could include, for example: Banks, insurance companies, and broker-dealers that invest in, or buy and sell, securities for their own accounts; corporations and pension funds that manage their own investment portfolios; or investment advisers that manage private accounts, mutual fund assets, or pension plan assets. In addition to amendments to Form N–PX, we are proposing new rule 14Ad–1 under the Exchange Act to require managers to annually report their say-on-pay votes on Form N–PX.

[24] This number does not include put or call options and is based on staff review of managers' reports on Form 13F covering the first quarter of 2021. Section 13(f) of the Exchange Act requires a manager to file a report with the Commission if it exercises investment discretion with respect to accounts holding certain equity securities (''section 13(f) securities'') having an aggregate fair market value on the last trading day of any month of any calendar year of at least $100 million. Rule 13f–1 requires that managers file quarterly reports on Form 13F if the accounts over which they exercise

proposal is aimed at completing implementation of section 951 of the Dodd-Frank Act. The Commission first proposed rule and form changes in October 2010 to implement the Dodd-Frank Act's manager reporting requirements.[25] This proposal takes into account the comments we received in response to that proposal.

Section 951 of the Dodd-Frank Act added new section 14A to the Exchange Act. This section generally requires public companies to hold non-binding shareholder advisory votes to: (1) Approve the compensation of its named executive officers; (2) determine the frequency of such votes, with the option of every 1, 2, or 3 years; and (3) approve ''golden parachute'' compensation in connection with a merger or acquisition (collectively, ''say-on-pay votes'').[26] Section 14A(d) of the Exchange Act requires that every manager report at least annually how it voted on say-on-pay votes, unless such vote is otherwise required to be reported publicly. The Commission's 2010 proposal to implement this provision would have required managers to file their record of say-on-pay votes with the Commission annually on Form N–PX, and would have amended Form N–PX to accommodate the new manager filings.[27]

Most commenters on the 2010 proposal expressed overall support for the Commission's proposal to implement this requirement through reporting on modified Form N–PX.[28] As discussed further below, some commenters expressed concerns with particular aspects of the proposal. The rule and form amendments we are proposing include certain modifications from the 2010 proposal, including modifications that take into consideration commenters' suggestions. In response to comments, we propose to require managers to report say-on-pay votes for securities over which the manager exercised voting power. The proposed definition of exercise of voting power focuses on instances when the manager uses voting power to influence a voting decision. To reduce the potential for duplicative reporting when more than one manager exercises voting power or when a manager exercises voting power on behalf of a fund, we propose to allow managers to rely on joint reporting provisions under these circumstances. We also propose that the amendments to Form N–PX for funds would apply to managers reporting say-on-pay votes on Form N–PX.

II. Discussion

A. Scope of Funds' Form N–PX Reporting Obligations

Currently, every registered management investment company, other than a small business investment company registered on Form N–5, must file its proxy voting record annually on Form N–PX.[29] We are not proposing to modify the scope of registered investment companies subject to Form N–PX reporting requirements.

We are, however, proposing to amend the scope of voting decisions these funds must report. Currently, funds are required to report information for each matter relating to a portfolio security considered at any shareholder meeting held during the reporting period and with respect to which the fund was entitled to vote.[30] We are proposing to amend this standard to provide that, for purposes of Form N–PX, a fund would be entitled to vote on a matter if its portfolio securities are on loan as of the record date for the meeting because the fund could recall them and vote them.[31] This proposed amendment is designed to ensure that a fund's filings on Form N–PX reflect the effect of its securities lending activities on its proxy voting, providing context to the information funds already provide about revenue from securities lending.

We request comment on the proposed amendments to the scope of funds' reporting obligations on Form N–PX, including the following:

1. Should we continue to require all registered management investment companies, other than small business investment companies registered on Form N–5, to report on Form N–PX? Are there other types of registered investment companies, such as unit investment trusts, that we should require to report their proxy votes on Form N–PX? If we do so, would these other types of investment companies face unique challenges in reporting their proxy votes? If we extended Form N–PX reporting requirements to unit investment trusts, should we exclude unit investment trusts that invest exclusively in mutual funds, such as those that offer variable annuities and variable life insurance, since the underlying mutual funds would be covered?

2. As proposed, should we amend Form N–PX to provide that a fund will be entitled to vote on a matter if its portfolio securities are on loan as of the record date? If not, why should the form not consider a fund to be entitled to vote loaned securities where the fund could recall the securities in order to vote them?

B. Scope of Managers' Form N–PX Reporting Obligations

1. Managers Subject to Form N–PX and Categories of Votes They Must Report

We are proposing that Form N–PX reporting obligations for say-on-pay votes would extend to each person that (i) is an ''institutional investment manager'' as defined in the Exchange Act; and (ii) is required to file reports under section 13(f) of the Exchange Act.[32] This is consistent with the scope of the reporting obligation in section 14A(d) of the Exchange Act. Thus, a manager that is otherwise required to report on Form 13F would be required to disclose its say-on-pay votes on Form N–PX.[33]

We are proposing, consistent with the 2010 proposal, to require a manager's report on Form N–PX to include the manager's voting record for say-on-pay votes.[34] The types of votes that the

investment discretion hold an aggregate of more than $100 million in section 13(f) securities. *See* 17 CFR 240.13f–1. Section 14A(d) of the Exchange Act requires that ''every institutional investment manager subject to section 13(f)'' of the Exchange Act report its say-on-pay votes.

[25] *See* Exchange Act Release No. 63123 (Oct. 18, 2010) [75 FR 66622 (Oct. 28, 2010)] (''2010 Proposing Release'').

[26] *See* section 14A(a) and (b) of the Exchange Act; 17 CFR 240.14a–21; *see also* Item 402(a)(3) of Regulation S–K (defining the term ''named executive officers'').

[27] *See* 2010 Proposing Release, *supra* footnote 25. Unless otherwise indicated, comments cited in this release are the public comments the Commission received in response to the 2010 Proposing Release, which are available at *http://www.sec.gov/comments/s7-30-10/s73010.shtml.* In addition, to facilitate public input on the Dodd-Frank Act, the Commission provided a series of email links, organized by topic, on its website. The public comments received on section 951 of the Dodd-Frank Act are available at *http://www.sec.gov/comments/df-title-ix/executive-compensation/executive-compensation.shtml.*

[28] *See, e.g.,* Letter of California Public Employees' Retirement System (Nov. 18, 2010) (''CalPERS Letter''); Letter of Council of Institutional Investors (Nov. 12, 2010) (''CII Letter''); Letter of Glass Lewis & Co. (Nov. 18, 2010) (''Glass Lewis Letter I''); Letter of Investment Company Institute (Nov. 18, 2010) (''ICI Letter''); Letter of Senator Carl Levin (Nov. 18, 2010) (''Levin Letter''); Letter of Heidi Preston (Oct. 26, 2010). Two commenters acknowledged that the Commission's proposal was required under the Dodd-Frank Act. Letter of Investment Adviser Association (Nov. 16, 2010) (''IAA Letter''); Letter of Oli Stone (Nov. 17, 2010) (''Stone Letter''). One commenter generally opposed the proposal. Letter of Dennis Reiland (Nov. 8, 2010) (''Reiland Letter'').

[29] *See* rule 30b1–4 under the Investment Company Act [17 CFR 270.30b1–4].

[30] *See* Item 1 of current Form N–PX.

[31] *See* Item 1 of proposed Form N–PX.

[32] *See* proposed rule 14Ad–1(a); 15 U.S.C. 78m(f).

[33] Proposed rule 14Ad–1(a).

[34] Proposed rule 14Ad–1(a); Item 1 of proposed Form N–PX. Shareholder votes on executive compensation that are not required by sections 14A(a) and (b), such as in the case of foreign private issuers (as defined in rule 3b–4(c) under the Exchange Act [17 CFR 240.3b–4(c)]) that are exempt

Continued

proposal would require managers to report are the same as the types provided by section 14A(d) of the Exchange Act. The manager, therefore, would be required to report votes required by section 14A(a) on the approval of executive compensation and on the frequency of such executive compensation approval votes, as well as votes required by section 14A(b) on the approval of executive compensation that relates to an acquisition, merger, consolidation, or proposed sale or other disposition of all or substantially all the issuer's assets.

A few commenters expressed support for broader disclosure of managers' proxy votes, beyond say-on-pay votes.[35] In the 2010 proposal, the Commission did not propose to require reporting of votes other than say-on-pay votes by managers because the purpose of that rulemaking was primarily to implement a statutory mandate.[36] We continue to believe that it is appropriate to focus on managers' say-on-pay votes, consistent with the statutory mandate.

We request comment on the class of managers who would be required to file reports on Form N–PX and the types of votes they would be required to report under the proposal:

3. Is the proposed scope of managers that would be required to report say-on-pay votes on Form N–PX appropriate? Does it sufficiently capture all managers? Does it capture managers that should not be covered? Why or why not?

4. Is there a more appropriate standard for proposed rule 14Ad–1's manager reporting requirements? If so, please explain.

5. Should we, as we are proposing, require managers to report all of their say-on-pay votes? Are any exclusions warranted? If so, please explain.

6. Should we require managers to report say-on-pay votes on Form N–PX, as proposed? Should managers use a different form for reporting these votes? For example, would there be advantages to requiring managers to report say-on-pay votes on Form 13F instead?

7. In addition to requiring managers to report their say-on-pay votes, should we require managers to report any votes other than say-on-pay votes? If so, please identify any other votes that managers should be required to report and the basis for the Commission to introduce such a reporting requirement.

8. Are there circumstances in which managers may want to voluntarily disclose other types of votes, beyond say-on-pay votes, on Form N–PX? If so, are there any impediments in the proposal that would prevent or discourage managers from voluntarily disclosing information about other types of votes?

2. Managers' Exercise of Voting Power

We are proposing to require that a manager report a say-on-pay vote for a security only if the manager ''exercised voting power'' over the security—that is, if the manager both has voting power and exercises that power.[37] Under the proposal, voting power would exist when a manager has the ability to vote the security or direct the voting of the security, including the ability to determine whether to vote the security at all, or to recall a loaned security before a vote.[38] The proposal would define exercise of voting power to mean the actual use of voting power to influence a voting decision.[39] Voting power could exist or be exercised directly or through a contract, arrangement, understanding, or relationship, and multiple parties could have voting power over the same securities. For example, a party could exercise voting power if it influences the way a third party votes the security, even where the manager is not the sole decision-maker.[40] The proposed rule thus adopts a two-part test for determining whether a vote must be reported, requiring both power to vote a security (or to cause another party to vote such security) and the actual use of such power to influence the voting decision in the case of the specific vote.[41]

The proposed voting power standard differs from the approach the Commission proposed in 2010 and from how the Commission has identified voting power in certain other contexts. In 2010, the Commission proposed to require that a manager report a say-on-pay vote for a security only if the manager ''had or shared the power to vote, or to direct the voting of'' the security, using language similar to 17 CFR 240.13d–3(a) (rule 13d–3(a)) under the Exchange Act.[42] Some commenters on the 2010 Proposing Release supported the proposed focus on voting power as the standard for determining whether a manager must report say-on-pay votes, with one noting that in practice, shared voting arrangements are rare.[43] Other commenters suggested that it would be more appropriate to focus on who actually voted the security, rather than who had the power to vote the security.[44] Another commenter noted that in certain cases, managers cast votes based on client instructions, and that in such cases the manager's voting power is ministerial in nature.[45]

The revised standard we are proposing is intended to clarify the scope of the say-on-pay vote reporting obligation by focusing more specifically on the *exercise,* rather than mere *possession,* of voting power. Our proposed standard is intended to align responsibility for deciding how to vote securities with responsibility for reporting such votes.[46] The proposed approach is tailored to considerations associated with section 14A(d) of the Exchange Act and the scope of say-on-pay vote reporting obligations. As a result, our proposed definition of ''voting power'' and the ''exercise'' of voting power do not affect the meaning of these or similar terms used in other Commission rules.

The proposed test focuses on exercise, rather than mere possession, of voting power to address shared voting power situations and to make managers' reports of say-on-pay votes more useful for clients and other investors. As an example of the proposed approach, if a manager votes a client's separate account's shares based on its own judgment or in accordance with its own guidelines, the manager exercised voting power over the security and would be required to report those votes. Conversely, if the manager's voting decision on a say-on-pay vote is entirely determined by its client, either because the client communicates its wishes directly to the manager or because the client has a written policy regarding the voting decision that does not call for

from the proxy solicitation rules, would not be required to be reported on proposed Form N–PX.

[35] *See* ICI Letter (expressing the belief that all institutional investors should be required to disclose every proxy vote they cast, as funds currently do); Stone Letter (suggesting that manager reporting requirements should cover all proxy items over which the manager has voting authority, rather than just say-on-pay votes).

[36] *See, e.g.,* 2010 Proposing Release, *supra* footnote 25, at Section II.B.1 (''The scope of votes that would be required to be reported under the proposal is the same as the scope provided by new Section 14A(d) of the Exchange Act.'').

[37] *See* proposed rule 14Ad–1(a).

[38] *See* proposed rule 14Ad–1(d)(1) (defining voting power).

[39] *See* proposed rule 14Ad–1(d)(2) (defining exercise of voting power).

[40] If two managers exercise voting power over the same security, they could rely on the joint reporting provisions in the proposal to reduce reporting burdens and address duplicative reporting. *See infra* Section II.D.1.

[41] Proposed rule 14Ad–1(a); Item 1 of proposed Form N–PX.

[42] *See* 2010 Proposing Release, *supra* footnote 25, at n.18 and accompanying text.

[43] *See, e.g.,* Letter of Chris Barnard (Nov. 13, 2010) (''Barnard Letter''); CalPERS Letter; CII Letter.

[44] *See, e.g.,* Stone Letter; Letter of Managed Funds Association (Dec. 22, 2010) (''MFA Letter''); ABA Letter; Glass Lewis Letter I.

[45] *See, e.g.,* Mayer Brown Letter.

[46] Glass Lewis Letter I (supporting this approach).

any independent judgment by the manager, the manager is not exercising voting power over the security because the manager is not influencing the voting decision. The proposal would not require a manager to report these votes. This is the case even if the manager is the party that carries out the actual vote in accordance with its client's wishes. However, if the manager influences the voting decision in this context by, for example, exercising its own judgment in determining how the client's policies should apply to the say-on-pay vote, then the manager would exercise voting power when it carries out the policy and report the vote accordingly. This may be the case, for instance, if a client has a policy of opposing pay packages that are unreasonable but determining if a package is ''unreasonable'' involves exercise of the manager's judgment. When determining whether the manager exercised voting power, the manager should assess whether it was using its voting power to influence the voting decision—such as by exercising independent judgment or expertise in a way that affects how the security was voted—or whether it was instead simply applying a policy on a formulaic or mechanical basis. As another example, a manager would exercise voting power where the manager casts a vote in accordance with voting policies developed by the manager and adopted by the client. A manager with voting power may also exercise that voting power through other influence over the voting decision, separate from any discretion the manager may have in determining or applying a client's voting policies. The fact patterns in this discussion are meant to be illustrative examples and are not meant to cover all scenarios in which a manager would be required to report say-on-pay votes because it has voting power and uses that power to influence a voting decision.

The proposed test also provides that a manager exercises voting power when it influences the decision of whether to vote a security. For example, a manager that determines not to vote on a say-on-pay matter would exercise voting power under the proposal. A manager also would exercise voting power when it decides whether to recall loaned securities in advance of a vote in order to vote the shares.[47]

A manager would not exercise voting power if a third party makes all decisions of whether to vote the security. For example, certain clients may have relationships with securities lending agents, and the client or the securities lending agent would determine whether to recall loaned securities, without any involvement by the manager.[48] In this case, the manager would not exercise voting power with respect to the loaned securities because it would not influence the decision of whether to recall the loaned shares.

The framework we are proposing is intended to provide additional insight into how managers are exercising the voting discretion they have been granted by their clients without attributing to managers votes that are dictated fully by their clients or by other managers. The framework is intended to avoid potential confusion that could result from a manager reporting votes where the manager did not influence the voting decision. We believe requiring a manager who does not exercise voting power, for instance because its votes are entirely dictated by a client's policy, to report those votes on Form N–PX would be of limited benefit to the manager's clients and potential clients, as well as other investors. It would not provide insight into—and in fact may obscure—how a manager exercises its discretion.[49]

In certain cases, we expect our proposed framework will result in multiple parties determining they exercise voting power (*e.g.,* because more than one manager provides input on applying a client's voting policies). In these circumstances, all such managers would come within the scope of the reporting requirements under the proposal, although they could rely on the joint reporting provisions discussed below to reduce reporting burdens.

The focus on a manager's exercise of voting power could result in the manager's reports on Form N–PX differing from its reports on Form 13F. For example, if a manager exercises investment discretion over a particular section 13(f) security held in a client's account, but the client retains all rights to vote proxies for that security, the manager generally would report that security on its holdings report on Form 13F. However, it would not be required to report any say-on-pay votes with respect to that security. Conversely, a manager that exercises voting power over a security, but is not required to report the security on Form 13F because it does not have investment discretion over the security or because it did not hold the security at the end of a calendar quarter, would nonetheless be required to report say-on-pay votes on Form N–PX for that security.[50]

The 2010 proposal asked whether it would be appropriate to use a different standard, such as investment discretion, as the test for reporting say-on-pay votes.[51] We believe that using investment discretion as the test would result in managers having to report votes cast by clients in cases where the manager retains investment discretion but not voting power. We believe this would be confusing to investors and could inaccurately imply that the manager filing the report actually made or influenced the decision it was reporting.[52] We also are not proposing to base the reporting requirement upon whether a manager, in fact, votes rather than on whether the manager exercises voting power.[53] A test based on who physically marks the proxy card (or its electronic equivalent) would omit from its scope managers that participated in determining how to cast the vote, but would simplify the reporting obligation.[54]

We request comment on the proposed approach of requiring managers to report say-on-pay votes when they exercise voting power over the security, and in particular, on the following issues:

9. Should the reporting requirement be based on exercising the power to vote with respect to say-on-pay votes as proposed, or should we use some other basis? For example, should we base the reporting requirement on the possession of investment discretion, the identity of who in fact votes, or the identity of who receives the ballot? As another example, should a vote that was dictated entirely by a client's mandate be treated as an exercise of voting power by the manager, even if the manager did not influence the vote? What are the advantages and disadvantages of the different potential approaches?

[47] *See also infra* Section C.3.b (discussing proposed disclosure about the number of shares a reporting person has loaned and not recalled, and the benefits of that disclosure).

[48] *See* ABA Letter.

[49] *See, e.g.,* ISS Letter; Mayer Brown Letter (commenting that managers sometimes effectuate client voting decisions by completing the proxy card, but do not have control over or decide how shares will be voted).

[50] *See also* discussion *infra* Section II.B.3 (discussing differences in reporting between Form 13F and Form N–PX).

[51] *See* 2010 Proposing Release, *supra* footnote 25, at Section II.B.2.

[52] CII Letter.

[53] Glass Lewis Letter I (only the ''voting entity'' should report); MFA Letter (require reporting only when the manager has instructed an intermediary to vote its shares); Letter of Seward & Kissel LLP (Nov. 18, 2010) (''Seward Letter'') (require reporting by manager that ''actually voted'' the proxy); Stone Letter (party who votes should bear the burden of disclosure and the Commission should not require reporting on the basis of shared voting authority).

[54] ISS Letter (suggesting that the manager who receives the ballot should be the primary filer with respect to the votes covered by that ballot).

10. Should we modify the proposed definitions of voting power or exercise of voting power? For example, instead of considering a manager to exercise voting power when it uses voting power to influence a voting decision, should we use a different standard, such as using voting power to ''significantly'' influence a voting decision or to ''primarily'' make a voting decision? If so, what factors would be relevant for determining if a manager's role in a voting decision meets the revised standard?

11. Should we, as proposed, consider a manager to exercise voting power when it has the ability to determine not to vote or to recall loaned securities? Would this provision present challenges to managers? If so, what are those challenges, and are there changes to the reporting requirement that would address such challenges?

12. Should we provide additional guidance concerning the circumstances under which a manager exercises voting power? If so, please specify the type of guidance that managers would find helpful.

13. Does our proposed exercise of voting power standard cover circumstances that should be covered or should not be covered? If so, what are the circumstances that should or should not be covered?

3. Additional Scoping Matters for Manager Reporting of Say-on-Pay Votes

We are proposing to require that a manager report say-on-pay votes with respect to any security over which it meets the voting power test described above.[55] As was the case in the 2010 Proposing Release, we are not proposing to modify the scope of securities to align with those reported on Form 13F or to provide exceptions where the manager does not vote.

Some commenters supported the requirement that managers report any security.[56] Other commenters requested that the Commission limit the reporting obligation to securities that had previously been reported publicly on Form 13F or adopt a *de minimis* threshold below which reporting of say-on-pay votes would not be required.[57] A commenter requesting a *de minimis* threshold argued that not providing an equivalent exemption from Form N–PX reporting as is available from Form 13F reporting would reduce the value of the 13F exemption and raise costs for managers.[58]

While we acknowledge commenters' suggestion that a *de minimis* threshold could reduce record keeping and reporting burdens on managers for smaller position sizes that currently do not require reporting on Form 13F, a *de minimis* threshold could reduce the value of the say-on-pay disclosure because a fund or manager's full voting record would not be available when the threshold applied. We therefore are not proposing to provide a *de minimis* threshold for institutional managers reporting their say-on-pay votes on Form N–PX.

Because Form 13F reports only disclose holdings as of the close of a calendar quarter, these reports are not required to include securities held during the quarter but subsequently disposed of prior to the end of the quarter. Form 13F reports also do not reflect when a manager increased or decreased its position during a quarter but returned to the ''baseline'' level reported on its previous Form 13F report by the end of the quarter. As a result, although some commenters requested that the Commission limit say-on-pay reporting to securities that had previously been reported publicly on Form 13F, this approach could exclude a significant number of say-on-pay votes, which we believe would be inconsistent with the purpose of section 14A. The proposed rule therefore would require a manager to report say-on-pay votes without regard to whether the manager had previously reported or been required to report the security as a holding on Form 13F.

In addition to comments suggesting that Form N–PX reporting obligations should more closely align with Form 13F, some commenters suggested other exceptions from Form N–PX reporting for managers who do not vote. For example, two commenters recommended that we not require a manager to report on Form N–PX if, under certain or all circumstances, the manager does not vote.[59] These commenters stated that some investment strategies (such as algorithmic strategies with short holding periods) are unrelated to the economic interests served by voting proxies. One of these commenters stated that, with respect to certain strategies, voting proxies could be characterized as ''empty voting.'' [60] One of these commenters suggested that, in some cases, securities are held for insufficient periods (such as less than one day) to perform the requisite analysis for proxy voting, and where the manager disclosed a policy not to vote proxies to its clients, the manager's Form N–PX report would contain little information and would not further the policy objectives of the proposed rule.[61] The other commenter expressed concern about the burdens of developing and implementing technology to track record date holdings in cases where the manager does not vote.[62]

We believe that an exception from Form N–PX reporting requirements when a manager does not cast a vote on say-on-pay matters may limit the ability of investors to understand fully how a manager votes its shares. In addition, we believe the burden of reporting when the manager does not vote its shares would be lower under our current proposal, as compared to the burden of the equivalent aspect in the 2010 proposal, because the current proposal would not require the manager to track record date holdings to disclose the number of shares the manager was authorized to vote.[63]

A few commenters requested exceptions from Form N–PX reporting requirements in situations where a manager discloses certain information about how it votes to its clients, such as formulaic voting criteria developed by the manager which have been disclosed to clients or where the manager distributes its voting record to a client who had provided the manager its own

[55] Proposed rule 14Ad–1(a).

[56] CII Letter; Levin Letter.

[57] *See, e.g.,* ABA Letter (recommending non-disclosure of say-on-pay votes for securities not previously reported because they were below the *de minimis* threshold for Form 13F); Seward Letter (suggesting limiting the securities to which the reporting requirements apply to those securities previously reported publicly, or, in the alternative, adopting a threshold position size below which a reporting person need not report proxy votes); Barnard Letter (excluding securities where the manager holds less than 10,000 shares); Reiland Letter (suggesting to limit to holdings on which persons are required to file statements on Schedule 13D or Schedule 13G under the Exchange Act).

[58] *See* Letter of Intel Corporation (Nov. 19, 2010) (''Intel Letter''). On Form 13F, a manager is permitted to omit holdings of fewer than 10,000 shares (or less than $200,000 principal amount in case of convertible debt securities) and less than $200,000 aggregate fair market value. *See* Special Instruction 10 to Form 13F.

[59] *See* Seward Letter (requesting an exception from the reporting requirement where the manager maintains a policy not to vote proxies and discloses that policy to clients); ABA Letter (requesting a blanket exception for holdings that were not voted).

[60] *See* ABA Letter; *see also* Exchange Act Release No. 62495 (July 14, 2010) [75 FR 42982, 43017–20 (July 22, 2010)] (''Proxy Mechanics Concept Release'') (discussing the concept of ''empty voting''). This release cites some comment letters on the Proxy Mechanics Concept Release. These comment letters are available at *https://www.sec.gov/comments/s7-14-10/s71410.shtml.*

[61] Seward Letter.

[62] ABA Letter.

[63] *See supra* Section II.C.3 (discussing how the quantitative information contained in this proposal differs from the 2010 proposal, including no longer proposing to require the number of shares the manager was authorized to vote).

proxy policies or guidelines to follow.[64] We do not believe that an exception would be warranted in these circumstances because, in addition to benefiting the direct clients of managers, public disclosure of say-on-pay votes could benefit other investors, such as plan participants of employee benefit plans that hire managers.

Finally, to the extent a manager did not exercise voting power over any securities that held say-on-pay votes during a given reporting period, we are proposing to require the manager to file a Form N–PX report affirmatively stating this fact. The Commission also proposed this requirement in 2010.[65] One commenter opposed this requirement, stating that it would not contribute to the objective of increased transparency regarding any possible influence over shareholder votes and corporate governance.[66] However, we believe this disclosure would help investors and the Commission differentiate managers with no reportable say-on-pay votes from those that failed to file a Form N–PX report to disclose say-on-pay votes.

We request comment on the circumstances in which the proposal would require a manager to file a Form N–PX report, and, in particular, on the following issues:

14. Should we permit managers to omit votes otherwise reportable where the manager's ownership is below a specific threshold? What are the potential advantages or disadvantages if we permit a manager that holds, on the record date, fewer than 10,000 shares and less than $200,000 aggregate fair market value to omit say-on-pay votes on such securities? Would such an exception impede investors from understanding how shares were voted? Why or why not?

15. Should we permit managers to omit votes on a particular type of security? Do managers have substantial holdings of securities that are not ''section 13(f) securities'' as defined by 17 CFR 240.13f–1(c), but are registered pursuant to section 12 of the Exchange Act and thus would have say-on-pay votes? Would there be potential advantages or disadvantages if we required managers to report only their say-on-pay votes on section 13(f) securities? Would such an approach be consistent with the public interest, and how would it impact investor protection?

16. Should we permit managers to omit votes on securities that were not held as of the end of a calendar quarter (and thus would not be reported on Form 13F)? Should we permit or require any disclosure on Form N–PX or elsewhere to explain differences between information reported on Form N–PX and information reported on Form 13F or related circumstances (*e.g.,* where a manager has significantly more or less voting power on the record date of a say-on-pay vote than its Form 13F report would otherwise suggest)? If so, under what circumstances would this disclosure be helpful? What would the disclosure entail, and should it be permissive or required?[67]

17. Should we expand or limit in any other way the securities with respect to which managers would be required to report say-on-pay votes?

18. Should we modify the proposed approach for managers that do not vote their shares? For example, should we permit these managers to not file Form N–PX reports? Should we exempt non-voting managers from certain disclosure requirements on Form N–PX concerning the various securities they did not vote on say-on-pay matters during the reporting period? What conditions or limitations, if any, should apply? For instance, to rely on a modified approach, should a manager be required to disclose to its clients that it does not vote? Would a modified approach be particularly applicable to certain categories of managers, such as those whose trading strategies involve relatively short-term ownership?

19. As proposed, should we require a manager without any say-on-pay votes to disclose to file a report on Form N–PX stating that fact? Would such filings effectively distinguish managers that missed a required filing from managers without say-on-pay votes to report?

C. Proxy Voting Information Reported on Form N–PX

We are proposing to enhance funds' current Form N–PX disclosures so investors can more easily understand and analyze proxy voting information. These proposed changes include, for example, more clearly tying the description of the voting matter to the issuer's form of proxy and categorizing voting matters by type. In addition, we are proposing to extend many of these proposed enhancements to the Form N–PX reports that managers would file under this proposal.

1. Identification of Proxy Voting Matters

We are proposing to require reports on Form N–PX to identify proxy voting matters using the same language as disclosed in the issuer's form of proxy. In 2010, the Commission proposed to require standardized descriptions for say-on-pay votes and brief identifications of other votes.[68] At that time, the Commission requested comment on alternative methods of standardizing descriptions of these voting matters. As part of the Proxy Mechanics Concept Release, the Commission also solicited comment regarding methods for uniform identification of proxy voting matters in Form N–PX reports.[69] In particular, the Commission asked about ways to standardize identifications if issuers do not themselves create and assign unique interactive data ''tags'' for each matter on their proxy statements.[70] Several commenters on the Commission's 2010 proposal supported requiring standardized descriptions for say-on-pay votes, and one commenter on the Proxy Mechanics Concept Release expressed support for standardizing descriptions more broadly.[71] Two commenters expressed concern with standardized descriptions for matters other than say-on-pay votes. These commenters cited the practical challenges posed in uniformly identifying different matters, given both the variety of voting matters before shareholders and the absence of standardized data tags in issuer proxy materials.[72]

[64] ABA Letter (formulaic voting criteria); Mayer Brown Letter (distribution to clients).

[65] Item 1 of proposed Form N–PX.

[66] Seward Letter.

[67] Under the proposal, a manager would be permitted to disclose additional information on the cover page of its Form N–PX report, so long as it does not, either by its nature, quantity, or manner of presentation, impede the understanding or presentation of the required information. *See* General Instruction C.3 of proposed Form N–PX.

[68] *See* 2010 Proposing Release, *supra* footnote 25, at paragraph accompanying n.89.

[69] Proxy Mechanics Concept Release, *supra* footnote 60, at Section III.C.3.

[70] *Id.,* at requests for comment subsequent to n.237 (''Whether or not we permit or require interactive data tagging, should Form N–PX require standardized reporting formats so that comparisons between funds are easier?'').

[71] *See* CalPERS Letter; Fidelity Letter; Letter of Michael Ostrovsky (Sept. 5, 2013) (File No. S7–14–10) (''Ostrovsky Letter on Concept Release'') (supporting a standardized classification system for voting matters).

[72] *See* Fidelity Letter (citing difficulty ''given the wide variety of votes placed before shareholders'' and stating that ''as a general matter, the variable nature of proxy-related disclosures do not lend themselves to uniform standardization''); Letter of Fidelity Investments (Oct. 20, 2010) (File No. S7–14–10) (''Fidelity Letter on Concept Release'') (questioning feasibility of providing for a uniform identification of each matter voted in reports on Form N–PX); Letter of Investment Company Institute (Oct. 20, 2010) (File No. S7–14–10) (''ICI Letter on Concept Release'') (citing a ''significant practical issue'' of ''how to provide for uniform

Continued

We are proposing to require reporting persons to use the same language from the issuer's form of proxy to identify proxy voting matters on Form N–PX.[73] In addition, each voting matter (including say-on-pay votes and other voting matters) would be required to be reported in the same order as presented on the issuer's form of proxy.[74] We believe these proposed requirements would facilitate identification of identical matters included on different Form N–PX filings by different reporting persons even though there is no interactive data tagging in issuer proxy materials.[75] We are proposing to apply the identification requirement to all voting matters in order to facilitate the ability of investors to better understand fund and manager proxy disclosure and compare voting records. We believe that reflecting the descriptions and ordering used on an issuer's form of proxy, which is publicly available and must identify clearly and impartially each separate matter intended to be acted upon, would address the previously identified practical issues associated with standardized descriptions.[76]

We request comment on the proposed requirement to identify proxy voting matters, including the following:

20. Should we require, as we are proposing, that Form N–PX use the descriptions and ordering used on an issuer's form of proxy? Are there practical considerations we should consider with respect to tying Form N–PX disclosure to forms of proxies?

21. Does using the descriptions and ordering used on an issuer's form of proxy, which is publicly available, overcome the previously identified practical issues associated with standardized descriptions? Why or why not? Should we revert to the standardized language approach for say-on-pay votes, as was proposed in the 2010 proposal? If so, why?

22. Would the proposed requirement to use the description and ordering from an issuer's form of proxy facilitate the comparison of Form N–PX data, or otherwise enhance the usefulness of information reported on Form N–PX for users? What obstacles, if any, might prevent reporting persons from being able to comply with the proposed requirement?

2. Identification of Proxy Voting Categories

We are proposing that Form N–PX reporting persons select from standardized categories to identify the subject matter of each of the reported proxy voting items. This requirement would apply to managers and funds. The proposal would require a reporting person to categorize each proxy voting matter from a specified list of categories and subcategories. The proposed categories and subcategories are designed to cover matters on which funds frequently vote, based on our staff's experience and review of the matters on which funds voted in 2020, including say-on-pay votes:

- Board of directors (subcategories: Director election, term limits, committees, size of board, or other board of directors matters (along with a brief description));
- Section 14A say-on-pay votes (subcategories: 14A executive compensation, 14A executive compensation vote frequency, or 14A extraordinary transaction executive compensation);[77]
- Audit-related (subcategories: Auditor ratification, auditor rotation, or other audit-related matters (along with a brief description));
- Investment company matters (subcategories: Change to investment management agreement, new investment management agreement, assignment of investment management agreement, business development company approval of restricted securities, closed-end investment company issuance of shares below net asset value, business development company asset coverage ratio change, or other investment company matters (along with a brief description));
- Shareholder rights and defenses (subcategories: Adoption or modification of a shareholder rights plan, control share acquisition provisions, fair price provisions, board classification, cumulative voting, or other shareholder rights and defenses matters (along with a brief description));
- Extraordinary transactions (subcategories: Merger, asset sale, liquidation, buyout, joint venture, going private, spinoff, delisting, or other extraordinary transaction matters (along with a brief description));
- Security issuance (subcategories: Equity, debt, convertible, warrants, units, rights, or other security issuance matters (along with a brief description));
- Capital structure (subcategories: Stock split, reverse stock split, dividend, buyback, tracking stock, adjustment to par value, authorization of additional stock, or other capital structure matters (along with a brief description));
- Compensation (subcategories: Board compensation, executive compensation (other than Section 14A say-on-pay), board or executive anti-hedging, board or executive anti-pledging, compensation clawback, 10b5–1 plans, or other compensation matters (along with a brief description));
- Corporate governance (subcategories: Articles of incorporation or bylaws, board committees, codes of ethics, or other corporate governance matters (along with a brief description));
- Meeting governance (subcategories: Approval to adjourn, acceptance of minutes, or other meeting governance matters (along with a brief description));
- Environment or climate (subcategories: Greenhouse gas (GHG) emissions, transition planning or reporting, biodiversity or ecosystem risk, chemical footprint, renewable energy or energy efficiency, water issues, waste or pollution, deforestation or land use, say-on-climate, environmental justice, or other environment or climate matters (along with a brief description));
- Human rights or human capital/workforce (subcategories: Workforce-related mandatory arbitration, supply chain exposure to human rights risks, outsourcing or offshoring, workplace sexual harassment, or other human rights or human capital/workforce matters (along with a brief description));
- Diversity, equity, and inclusion (subcategories: Board diversity, pay gap, or other diversity, equity, and inclusion matters (along with a brief description));
- Political activities (subcategories: Lobbying, political contributions, or other political activity matters (along with a brief description));
- Other social (subcategories: Data privacy, responsible tax policies, charitable contributions, consumer protection, or other social matters (along with a brief description)); or

identification of each matter voted across different funds'').

[73] Special Instruction D.3 to proposed Form N–PX.

[74] *Id.* For matters involving the election of more than one director, reporting persons would be required to identify each director separately in the same order as on the form of proxy, even if the election of directors is presented as a single matter on the form of proxy. *Id.*

[75] *See* 2010 Proposing Release, *supra* footnote 25, at requests for comment subsequent to n.90 (requesting comment on alternatives that could result in uniform tags being assigned by all reporting persons).

[76] *See* Securities Exchange Act rule 14a–4(a)(3) (requiring that the form of proxy identify clearly and impartially each separate matter intended to be acted upon). *See also* Division of Corporation Finance, Compliance and Disclosure Interpretations, Section 301 (Mar. 22, 2016), *available at https://www.sec.gov/divisions/corpfin/guidance/exchange-act-rule-14a-4a3-301.htm.*

[77] The proposed Form N–PX categorizations include a separate category for say-on-pay votes to make it easier for investors to identify these votes, which require special disclosure under the Dodd-Frank Act. The Commission similarly proposed to require managers to use standardized descriptions to identify these votes in the 2010 proposal.

• Other (along with a brief description).

Some categories would contain specific subcategories which a reporting person must select when filing a report on Form N–PX. For example, a reporting person would need to distinguish section 14A executive compensation votes from section 14A executive compensation frequency votes. When categorizing a particular voting matter, a reporting person would be required to select multiple categories or subcategories for the matter if applicable. If a vote did not fall within a specified subcategory, the reporting person would select the ''other'' subcategory and provide a brief description. The brief description need only identify the subject matter of the vote, consistent with the level of detail in the specified subcategories.

We believe that requiring reporting persons to categorize their proxy votes would help investors understand how funds and managers are voting by helping them readily identify votes on matters that are important to them. It also would allow investors to compare how different managers or funds voted on specific types of matters.

We request comment on the proposed requirement to categorize proxy votes reported on Form N–PX, and, in particular, on the following issues:

23. Should we require reporting persons to categorize their votes, as proposed? What are the advantages and disadvantages of this approach?

24. Do the proposed categories or subcategories adequately capture the range of proxy voting matters? Are there other categories or subcategories of votes that we should require reporting persons to identify? Will these categorizations enhance the usefulness of the information reported on Form N–PX for investors and facilitate the comparison of reporting persons' proxy voting records? Are there categories or subcategories we should eliminate?

25. Should we require reporting persons to use high-level categories to identify different types of votes, or should we require reporting persons to use subcategories, as proposed? Are there particular areas where subcategories are more or less difficult for reporting persons to use for purposes of identifying different types of votes? Are there particular areas where subcategories are more or less useful for investors?

26. Are there particular types of votes where the categorization would be unclear or where reporting persons may reasonably categorize the same vote differently? To what extent would the ability to select more than one category for a given vote address these types of issues? Would the use of subcategories help address or contribute to potentially differing approaches to categorizing a particular vote among reporting persons?

27. Are the proposed categories and subcategories sufficiently clear? Are there any categories or subcategories where additional guidance or definition would be helpful for understanding the parameters of a category or subcategory?

3. Quantitative Disclosures

We are proposing changes to Form N–PX that would require disclosure of information about the number of shares that were voted (or, if not known, the number of shares that were instructed to be cast). We are also proposing a requirement to disclose the number of shares the reporting person loaned and did not recall. These quantitative disclosure requirements would apply to a manager's say-on-pay votes and to all of a fund's votes.

In 2010, the Commission proposed to require that both funds and managers report: (1) The number of shares that the reporting person was entitled to vote (for funds) or had or shared voting power over (for managers); (2) the number of shares voted; and (3) how the reporting person voted the shares and, if the votes were cast in multiple manners (*e.g.,* for and against), the number of shares voted in each manner.[78]

Comments regarding these quantitative disclosure requirements were mixed. Some commenters supported the proposed quantitative disclosures or stated that they were acceptable.[79] Some commenters stated that providing quantitative disclosures would be burdensome.[80] One commenter opposed requiring funds to quantify votes in particular and stated that quantitative disclosures might cause confusion for investors or result in competitors gaining insight into fund strategies.[81]

Some commenters, while opposing any requirement that reporting persons report quantitative information, agreed that the use of the existing Form N–PX disclosure (*e.g.,* for, against, or abstain) without quantification is not meaningful for ''split votes,'' *i.e.,* if different votes are cast on the same matter by a reporting person.[82] These commenters suggested, should the Commission determine to adopt quantitative reporting requirements, that it limit such reporting to instances of actual split votes, and allow reporting persons to report the number of shares instructed to be cast.[83] Another commenter suggested that the Commission consider alternative indications of ''magnitude'' in lieu of requiring disclosure of the number of votes cast.[84]

As discussed in greater detail below, as compared to the 2010 proposal, there are three primary differences in the proposed quantitative disclosures requirements: (1) Clarifying that the reporting person's records could be used to determine the number of shares voted, even where those records do not reflect a confirmed number of actual votes cast and received by the issuer; (2) requiring disclosure of the number of shares the reporting person has loaned and not recalled; and (3) not proposing the previously proposed provisions requiring disclosure of the number of shares the reporting person was entitled to vote (for funds) or had or shared voting power over (for managers).

a. Disclosure of Number of Shares Voted

We are proposing, substantially as proposed in the 2010 proposal, a requirement that both funds and managers disclose: (1) The number of shares voted (or instructed to be voted); and (2) how those shares were voted (*e.g.,* for or against proposal, or abstain).[85] If the votes were cast in multiple manners (*e.g.,* both for and against), we propose requiring disclosure of the number of shares voted (or instructed to be voted) in each manner.[86] We are proposing to require

[78] *See* 2010 Proposing Release, *supra* footnote 25, at Section II.E.3.

[79] *See* Levin Letter (stating that quantitative disclosure will allow investors to monitor, understand, and hold their proxies accountable for their votes); CalPERS Letter (finding disclosure of the number of shares voted acceptable).

[80] *See* ICI Letter; Fidelity Letter; Mayer Brown Letter. One commenter, however, while opposing quantitative disclosures for other reasons, noted that from a purely technological perspective, disclosing share positions voted would be straightforward. *See* ISS Letter.

[81] *See* ICI Letter (noting that complying with the quantitative disclosure requirements as proposed would be burdensome and difficult, and questioning the value to shareholders).

[82] *See* Fidelity Letter (stating that ''a mere notation of 'split' may not be rich disclosure''); ICI Letter (stating that ''simply reporting 'split' does not provide much meaningful information about the way the reporting entity voted, and additional information may be useful to put the split vote in context'').

[83] *See* ICI Letter; Fidelity Letter; MFA Letter.

[84] *See* Mayer Brown Letter.

[85] Items 1(h) and 1(j) of proposed Form N–PX.

[86] Item 1(j) of proposed Form N–PX. As proposed in the 2010 release, in the case of a shareholder vote on the frequency of executive compensation votes, a reporting person would be required to disclose the number of shares, if any, voted in favor of each of 1-year frequency, 2-year frequency, or 3-year frequency, and the number of shares, if any, that abstained. We are clarifying that the number zero

Continued

disclosure of the number of shares voted or instructed to be voted because, where a manager votes in multiple ways on the same matter, disclosure of that fact alone is largely meaningless without providing a measure of the magnitude of the different votes.[87] In addition, and in contrast to the 2010 proposal, we are also proposing to require disclosure of the number of shares the reporting person loaned and did not recall.[88] We believe that the context given by disclosing the number of shares voted would allow investors to better understand how securities lending activities affect the voting practices of the reporting person. Without disclosing the amount voted, the amount of shares on loan for a given vote would not provide meaningful insight into how a fund or manager voted.

As suggested by some commenters, we are proposing to modify the 2010 proposal with respect to the disclosure of the number of shares voted because reporting persons may not be able to determine with certainty how many of the votes they instructed to be cast were actually voted in a particular matter.[89] This change would permit a reporting person to use the number of shares voted as reflected in its records at the time of filing a report on Form N–PX. If a reporting person has not received confirmation of the actual number of votes cast, we are proposing that Form N–PX instead may reflect the number of shares instructed to be cast on the date of the vote.[90] The proposal would not require a reporting person to seek confirmation of the actual number of votes cast if this information is not otherwise readily available.[91] However, should the reporting person learn prior to filing its Form N–PX that a different number of shares were voted, the reporting person would be required to report the actual number of votes cast.[92] If confirmation of the actual number of votes cast occurs after the reporting person files the Form N–PX report, we are not proposing to require an amendment to the filing. We believe that this approach would reduce the compliance burden of providing information regarding the number of shares voted. At the same time, this disclosure would still achieve the goal of providing meaningful information to investors about how a reporting person voted its shares.

Although suggested by a commenter, we are not proposing disclosure of the number of shares voted only in split voting situations.[93] We believe that requiring different disclosures for votes, depending on whether a reporting person split its vote on a particular matter, could result in potentially confusing inconsistencies within each report on Form N–PX. Providing information about the number of shares voted, in addition to shares on loan and not recalled, also would present a more complete picture of a reporting person's voting, including by allowing an investor to understand the extent to which a reporting person determines not to vote.

We also disagree with commenters that disclosure of the number of votes cast could result in competitors gaining insight into reporting persons' holdings.[94] Given the alignment of filing deadlines among forms, this disclosure likely will be publicly available via Form 13F (for managers) and Form N–PORT (for funds) before the reporting person is required to file on Form N–PX.[95] Even for securities reported on Form N–PX that are not reported on Form 13F or Form N–PORT, proxy votes reported on Form N–PX generally occur up to several months (including as many as 14 months) before the August 31 Form N–PX reporting date. As a result, we do not believe the disclosure would materially affect competition.[96] Reporting persons would also be permitted to request confidential treatment of filed information, as discussed further below.

We are also not proposing the approach advocated by one commenter who suggested that the Commission consider alternative indications of ''magnitude'' in lieu of requiring disclosure of the number of votes cast. This commenter suggested, for example, that a manager could report how a majority (or plurality) of the shares the manager was entitled to vote was actually voted or managers could report the percentage of total votes cast for each position.[97] We are not proposing these approaches because we believe they do not sufficiently demonstrate how a manager exercised its voting power (including any shares on loan and not recalled). We believe this context is important to present a more complete picture of how the manager votes, and these alternatives do not provide additional information relative to our proposal. Further, these methods would not alleviate any burden in retaining and reporting quantitative data regarding the number of votes cast.

We request comment on the proposed disclosure of the number of shares voted, and, in particular, on the following issues:

28. Should we, as proposed, require funds and managers to report the number of shares voted (or instructed to be cast)? Does disclosing the number of shares voted allow investors to understand better how securities lending activities impact the voting practices of the reporting person? Why or why not?

29. As proposed, should we require a reporting person to report the actual number of votes cast if it learns prior to filing its Form N–PX that a different number of shares were voted than the reporting person instructed to be cast? Should we require this reporting only if the reporting person receives information about the actual number of shares voted within a specified period before its Form N–PX filing is due? If so, what should the specified period be (*e.g.,* at least 5, 10, or 30 days before the Form N–PX filing is due)?

30. Are there other ways to promote investor understanding of reporting

(''0'') would be entered if no shares were voted, so that responses to this item would be uniformly numeric in nature. Item 1(h) of proposed Form N–PX.

[87] While we understand that funds do not split votes regularly, we believe investors would benefit from parity in disclosure between funds and managers in cases where funds do split votes.

[88] Item 1(i) of proposed Form N–PX. *See also infra* Section II.C.3.b for more information with respect to this proposed requirement.

[89] *See* ICI Letter; Fidelity Letter; MFA Letter. *See also* Memorandum from the Division of Investment Management regarding November 29, 2010 telephone call with BlackRock, Inc., representatives (November 30, 2010), available at *http://www.sec.gov/comments/s7-30-10/s73010-33.pdf* (in which BlackRock representatives indicated that the burden associated with providing quantitative disclosures may be significantly reduced to the extent that the proposed quantitative disclosure requirement was modified to only require disclosure of the number of votes instructed to be cast). In addition, we recognize that this may be an issue when a manager's client enters an arrangement with a securities lending agent to loan the client's securities without any involvement by the manager.

[90] Special Instruction D.5 to proposed Form N–PX. *See* Fidelity Letter (suggesting quantitative disclosure be limited to votes instructed to be cast); ICI Letter (same); MFA Letter (same); Stone Letter (same). *See also* Proxy Mechanics Concept Release, *supra* footnote 60, at Section II.B.1 (discussion of issues surrounding confirmation of proxy votes).

[91] Special Instruction D.5 to proposed Form N–PX.

[92] *Id.*

[93] *See* ICI Letter.

[94] *See* ISS Letter; ICI Letter (noting that quantitative disclosure information might be useful to competitors looking for information about fund holdings).

[95] To the extent securities reported on Form N–PX are included on Form 13F, reports from managers on Form 13F for the quarter ending June 30 would be required to be filed no later than August 14. This means that public disclosure of such holdings on Form 13F generally would pre-date the August 31 deadline for filing Form N–PX. Similarly, funds must publicly disclose their holdings on a quarterly basis on Form N–PORT. *See* 17 CFR 270.30b1–9 (requiring filing no later than 60 days after the end of the relevant fiscal quarter).

[96] *See also infra* Section IV.

[97] Mayer Brown Letter.

persons' voting practices (*e.g.,* the occurrence of split voting) that we should require instead of, or in addition to, disclosure of the number of shares voted (or instructed to be cast)? For example, would investor understanding be promoted if we required reporting of another metric, such as the percentage of total shares held that were voted (or instructed to be cast), to be disclosed? Why or why not?

31. We are proposing that, if a reporting person has not received confirmation of the actual number of votes cast, the reporting person instead may reflect the number of shares instructed to be cast on the date of the vote. Does this alleviate concerns about the burden on reporting persons with respect to quantitative disclosures? Is the information disclosed still of utility to data users? Why or why not?

32. Should the requirement to disclose the number of shares voted only apply to certain types of votes or to a subset of reporting persons? For example, should this disclosure be required only in the case of say-on-pay votes or split votes?

33. Does the proposed requirement to disclose the number of shares voted complement the proposed requirement to disclose the number of shares the reporting person loaned and did not recall? Would investors need both figures to understand how securities lending activities affect a reporting person's proxy voting? Are there other figures or types of information one would need to understand the interaction between these two activities?

34. Are there additional quantitative disclosures we should consider that would provide utility to investors?

b. Disclosure of Number of Shares the Reporting Person Loaned and Did Not Recall

In addition to the number of shares a reporting person voted, we are proposing to require disclosure of the number of shares the reporting person loaned and did not recall.[98] We understand from commenters that this information about securities lending is important to understand a reporting person's voting record because the reporting person cannot affirmatively cast a vote for or against a matter if the security is on loan over the record date. Several commenters on the 2010 Proposing Release and Proxy Mechanics Concept Release stated that it was important to know how many shares were not voted because they were on loan.[99] The proposed requirement is designed to provide transparency into how a reporting person's securities lending affects its proxy voting.

We also believe the proposed requirement to disclose the number of shares the reporting person loaned and did not recall would help address commenters' concerns with a requirement in the 2010 proposal to disclose the total number of shares a fund was entitled to vote or a manager had or shared voting power over. Some commenters opposed the requirement in the 2010 proposal because of the cost and effort that would be required to aggregate and reconcile the total number of shares a fund is entitled to vote or a manager has or shared voting power over.[100] These commenters noted complexities in the current proxy system, including the intermediation between issuers and shareholders, and the multitude of entities involved (such as transfer agents, proxy vendors, and tabulators).[101] Some commenters also raised concern that there could be potentially confusing or misleading discrepancies between the reported number of shares voted and the reported number of shares which the reporting person was entitled to vote or over which it had or shared voting power.[102] For example, commenters discussed scenarios in which discrepancies between these figures could arise despite the reporting person's intent to vote all available shares (*e.g.,* discrepancies resulting from differing proxy frameworks in certain jurisdictions or limitations on a manager's ability to vote shares that its client has loaned as part of an agreement solely between the client and its custodian).[103]

We are proposing a requirement that focuses solely on shares a reporting person loaned and did not recall. Under federal law, an investment adviser is a fiduciary.[104] With respect to securities lending, advisers have a fiduciary duty to consider the tradeoffs between continuing to keep securities on loan, or recalling loaned securities in order to vote.[105] The disclosure we are proposing to add to Form N–PX would provide transparency regarding whether a reporting person has opted to recall a security and vote the accompanying proxy or to keep the security out on loan. Absent this disclosure, investors would not have information about a manager's decision not to recall a loaned security, which is similar to the decision not to vote on a matter, which currently is reported on Form N–PX.[106] Our proposal also takes into account commenters' concerns on the prior proposal, and we believe the quantitative information we are proposing to require is easier for reporting persons to obtain than the information the 2010 proposal would have required. For instance, the proposal does not implicate the complexities in the current proxy system with determining the number of shares the reporting person was entitled to vote or over which it had or shared voting power that commenters described.

The disclosure we are proposing would be required only where the reporting person has loaned the securities. This would include scenarios where the reporting person loans the securities directly or indirectly through a lending agent.[107] However, it would not include scenarios where the manager is not involved in lending shares in a client's account because, for

[98] Item 1(i) of proposed Form N–PX.

[99] Levin Letter; Letter of InterOrganization Network (Oct. 13, 2010) (File No. S7–14–10); Shareowner Education Letter on Concept Release; Letter of Society of Corporate Secretaries & Governance Professionals (Nov. 22, 2010) (File No. S7–14–10) (''SCSGP Letter on Concept Release'').

[100] *See, e.g.,* ABA Letter; ICI Letter; Fidelity Letter; Stone Letter. *See also* Letter of Institutional Shareholder Services, Inc. (Oct. 20, 2010) (File No. S7–14–10) (''ISS Letter on Concept Release''); Letter of Sullivan & Cromwell LLP (Oct. 20, 2010) (File No. S7–14–10) (''Sullivan & Cromwell Letter on Concept Release''); Fidelity Letter on Concept Release; Letter of BlackRock (Oct. 29, 2010) (File No. S7–14–10) (''BlackRock Letter on Concept Release''); Letter of CFA Institute (Nov. 22, 2010) (File No. S7–14–10); ICI Letter on Concept Release.

[101] *See* ICI Letter; Sullivan & Cromwell Letter on Concept Release.

[102] *See* Fidelity Letter; ICI Letter; Mayer Brown Letter.

[103] *See* Fidelity Letter; Mayer Brown Letter.

[104] 2019 Fiduciary Interpretation, *supra* footnote 12, at text accompanying n.2. *See also* SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 194 (1963); Investment Adviser Codes of Ethics, Investment Advisers Act Release No. 2256 (July 2, 2004); Compliance Programs of Investment Companies and Investment Advisers, Investment Advisers Act Release No. 2204 (Dec. 17, 2003); Electronic Filing by Investment Advisers; Proposed Amendments to Form ADV, Investment Advisers Act Release No. 1862 (Apr. 5, 2000).

[105] *See* Proxy Voting Interpretation, *supra* footnote 13, at response to question 1 and at n.34 (indicating that while the application of the investment adviser's fiduciary duty in the context of proxy voting will vary with the scope of the voting authority assumed by the investment adviser, the relationship in all cases remains that of a fiduciary to the client, and an investment adviser must make any determination regarding whether to retain a security and vote the accompanying proxy or lend out the security in the client's best interest).

[106] *See* Item 1(g) of current Form N–PX.

[107] *See* Special Instruction D.7 of proposed Form N–PX. To the extent a reporting person allocates an amount of securities to the lending agent for lending purposes and treats that amount of securities as being on loan when determining how many shares it can vote in a matter, the reporting person should report all of the allocated shares as being on loan and not recalled (excluding any shares the reporting person recalled for the vote).

example, the manager is not a party to the client's securities lending agreement and has not itself (rather than the client) loaned the securities. As recognized above, a manager would not exercise voting power over loaned securities when its client hires a securities lending agent to loan securities in the client's account and the manager has no involvement in the securities lending arrangement or in decisions to recall loaned securities.[108] Thus, the manager would not have any say-on-pay reporting obligations with respect to those loaned securities.

We request comment on the proposed requirement to disclose the number of shares loaned and not recalled, and, in particular, on the following issues:

35. Should we require disclosure of the number of shares a reporting person loaned and did not recall, as proposed? Is this information valuable to investors? Does the value of the information differ between institutional and retail investors? Are there any changes we could make to enhance the utility of the information for investors?

36. Are there limitations we should be aware of regarding the ability of reporting persons to disclose the number of shares loaned and not recalled? If so, are there ways would could address those limitations?

37. We understand that proxy statements typically are not delivered until after the record date.[109] Does this create challenges for reporting persons to determine whether they want to recall loaned securities before the record date? [110] If so, how might these challenges affect disclosure of the number of shares loaned and not recalled, or other aspects of this proposal? Are there any changes we should make to the proposed rule to recognize these challenges?

38. Would the proposed requirement to disclose the number of shares a reporting person loaned and did not recall affect decisions a fund or manager currently makes on when to recall a loaned security for purposes of voting and when to keep a security on loan? If so, how might the proposal affect the revenues funds or managers (and, by extension, their investors or clients) receive from securities lending? Would disclosure of this effect be helpful to a fund's investors or a manager's clients? If so, what form should this disclosure take?

39. Beyond information about how securities lending activities affect proxy voting, are there other types of information that would help investors understand a reporting person's approach to voting? If so, are there ways we could capture that information in Form N–PX reports or elsewhere? Similar to the 2010 proposal, should we require that the reporting person disclose the total number of shares a fund was entitled to vote or a manager exercised voting power over?

40. Commenters raised concerns that the quantitative disclosure requirements in the 2010 proposal may lead to investor confusion.[111] Does our proposed approach limit the potential for confusing discrepancies by focusing more directly on the number of shares voted and the number of shares on loan? If not, what areas of potential confusion remain under our current proposal, and are there changes we could make to reduce the potential for confusion?

4. Additional Proposed Amendments to Form N–PX

In addition to proposing new categories of disclosure on Form N–PX, we are proposing certain other amendments to enhance the usability of Form N–PX reports and to modernize or clarify existing form requirements. For instance, we are proposing to require a standardized order to the Form N–PX disclosure requirements.[112] We are also proposing an amendment to require a fund that offers multiple series of shares to provide Form N–PX disclosure separately by series (for example, provide Series A's full proxy voting record, followed by Series B's full proxy voting record).[113] We believe these proposed changes will make Form N–PX disclosure easier to review and compare among reporting persons. Several commenters supported standardized order requirements, stating the importance of displaying data in a consistent manner to assist in analyzing multiple votes.[114] One commenter, in contrast, stated that we should not adopt a standardized order requirement and that it was not aware of shareholders having any difficulty in deciphering or locating Form N–PX information.[115] However, we are re-proposing the requirement because we continue to believe it would make the disclosure easier to review and compare among reporting persons, and believe it will aid our overall objective to increase transparency.

In the 2010 Proposing Release, the Commission proposed to retain the current form's requirement to report both the relevant security's CUSIP number and its ticker symbol. One commenter recommended that a ticker symbol be required only if a CUSIP number was unavailable since certain securities listed on more than one exchange have multiple ticker symbols.[116] In response to this comment, we are proposing to require reporting of only one security identifier. Reporting persons would be required to report the security's CUSIP number unless it is not available through reasonably practicable means (*e.g.,* in the case of certain foreign issuers).[117] If the CUSIP number is not reported, then Form N–PX would require the security's ISIN, unless it also is not available through reasonably practicable means.[118] Consistent with current Form N–PX, a filer may omit disclosure of both the CUSIP and ISIN identifier if neither is reasonably available through practicable means.[119]

In addition, we are proposing two general amendments related to the cover page of Form N–PX.[120] Consistent with the 2010 proposal, amended Form N–PX would contain a new section on the cover page to be used where the filing is an amendment to a previously filed Form N–PX report (*e.g.,* to correct errors

[108] *See supra* paragraph accompanying footnote 48.

[109] *See* Proxy Mechanics Concept Release, *supra* footnote 60, at Section III.C.2.

[110] Some commenters on the Proxy Mechanics Concept Release suggested that the lack of a meeting agenda prior to a record date generally does not affect their ability to anticipate many kinds of voting matters and to make arrangements to recall loaned securities in advance of a record date, if they determine to do so. *See, e.g.,* ICI Letter on Concept Release; Letter of American Bar Association (Dec. 17, 2010) (File No. S7–14–10).

[111] *See supra* footnote 103 and accompanying text.

[112] *See* Special Instruction D.1 to proposed Form N–PX.

[113] *See* Special Instruction D.9 to proposed Form N–PX.

[114] *See* Levin Letter (supporting standardized order and stating that ''[r]equiring the data to be displayed in a consistent manner will assist analysis of multiple votes''); CalPERS Letter (finding standardized order to be acceptable); Letter of the State Board of Administration of Florida (Oct. 20, 2010) (File No. S7–14–10) (''Florida Board Letter on Concept Release'') (supporting standardization of reporting for Form N–PX); Shareowner Education Letter on Concept Release (same); Letter of the United States Proxy Exchange (Oct. 20, 2010) (File No. S7–14–10) (''Proxy Exchange Letter on Concept Release'') (same).

[115] *See* Fidelity Letter.

[116] ABA Letter (noting the difficulties in determining which exchange is the principal exchange for the securities for purposes of the disclosure).

[117] *See* Item 1(b) of proposed Form N–PX; Special Instruction D.2 to proposed Form N–PX.

[118] *See* Item 1(c) of proposed Form N–PX; Special Instruction D.2 of proposed Form N–PX. If the security's CUSIP number is reported, then the ISIN would not be required to be reported.

[119] *See* Instruction 2 to Item 1 of current Form N–PX; Special Instruction D.2 of proposed Form N–PX.

[120] We are also proposing a few other amendments to the cover page of Form N–PX to accommodate manager reporting on Form N–PX. *See infra* Section II.D.2 (discussing these proposed cover page amendments).

in a previous filing or as part of the confidential treatment process).[121] Amendments to a Form N–PX report would be required to either restate the original Form N–PX report in its entirety or include only the additional information that supplements the information already reported in a Form N–PX report for the same period.[122] We also propose to amend the form to allow for additional information so long as it does not, either by its nature, quantity, or manner of presentation, impede the understanding or presentation of the required information.[123] This optional disclosure would be placed at the end of the cover page or, if it relates to a particular vote, a reporting person could provide additional information about the matter or how it voted after disclosing the required information about that vote.[124] Form 13F provides similar flexibility, where filers use it, among other things, to explain the reasons for an amendment to an earlier filing.[125] We believe this flexibility would also be useful in Form N–PX and would facilitate a reporting person's ability to provide additional information about a particular vote, or about its voting practices in general.[126]

Further, we propose to amend the current disclosure in Form N–PX requiring a fund to identify whether a matter was proposed by the issuer or by a security holder.[127] To provide additional information about matters proposed by security holders, we propose to require funds to identify whether such matters are proposals or counterproposals. In addition, we propose to clarify that the disclosure requirement would apply to funds only, and not to managers. We are not proposing that managers make this disclosure because say-on-pay votes relate exclusively to matters proposed by issuers and not by security holders.[128]

We are also proposing a technical amendment to Form N–PX that would require reporting persons to disclose whether each reported vote was ''for or against management's recommendation.'' Current Form N–PX requires funds to disclose whether a vote was ''for or against management.'' [129] The proposed amendment is intended to clarify that Form N–PX should disclose how the vote was cast in relation to management's recommendation on a particular proxy voting matter, as opposed to how the vote may have affected management. In recognition that there are some circumstances in which management may not provide a voting recommendation on a given matter, we are also proposing an instruction that would direct reporting persons to disclose ''none'' for the applicable matter in response to this disclosure requirement.[130]

The Commission similarly proposed to amend the current Form N–PX item to refer to whether a vote was ''for or against management's recommendation'' in the 2010 proposal.[131] Commenters generally supported the proposed change.[132] One commenter stated that we should replace this item instead with a narrative description of what management recommended for the vote, and allow readers to determine on their own if the reporting person voted with or against management.[133] However, our intent in this proposal is to provide useful and easily comparable information to shareholders. As a result, we are proposing to update the required disclosure to clarify that the report is required to disclose how the vote was cast in relation to management's recommendation.[134]

Unlike the 2010 proposal, which would have removed the definitions section in the instructions to Form N–PX, we are proposing to amend Form N–PX to include a section containing definitions for purposes of identifying terms used in Form N–PX.[135] The terms for which definitions are included are ''fund,'' ''institutional manager,'' ''reporting person,'' and ''series.'' The current version of Form N–PX also has a definitions section, but it refers filers to the definitions in the Investment Company Act and the rules and regulations thereunder.[136] The terms used in the definitions section are the same as those used in this release. We believe the proposed definitions would clarify the terms used on Form N–PX and, in doing so, make the application of the form's requirements to different categories of reporting persons clear. The proposed definitions are also intended to make the proposed form more concise and readable (*e.g.,* by referring to funds, rather than registered management investment companies, throughout the form).

We request comment on the additional proposed amendments to Form N–PX, and, in particular, on the following issues:

41. Should we, as proposed, require the information in Form N–PX reports to be disclosed in a standardized order? Would this facilitate comparisons or be otherwise useful to users of this information? What costs, if any, would be associated with standardization? Should the requirement to standardize apply to managers, funds, or both? If we standardize the order of the information in Form N–PX reports, should we use the order set forth in our proposal, or would some other order of information be more appropriate?

42. In proposing to require a standardized order to the information in Form N–PX, we are also proposing clarifying language with respect to the placement in a report for a fund containing multiple series. Would this requirement make it easier for investors to review reports more efficiently? Is there a different method of disclosing the votes of multiple series that would assist our goal of providing useful and comparative information?

43. Are there other ways we could make the disclosure in Form N–PX easier to review and compare among reporting persons? If so, what are they?

44. We are proposing to require reporting of only one security identifier (either the CUSIP or the ISIN) on Form N–PX. Should we require reporting persons to disclose both identifiers? If so, why? Should we also require the ticker symbol in order to identify a security? Why or why not? Is there a more appropriate identifier of securities?

45. Should the cover page permit, as proposed, the inclusion of optional information in addition to the information required by Form N–PX? Are the conditions proposed with respect to the optional information sufficient? Why or why not? In what instances might the inclusion of additional information on the cover page impede the comprehension of the required disclosure? For example, should we limit this additional information by length? Or by

[121] *See, e.g.,* Confidential Treatment Instruction 7 to proposed Form N–PX (regarding the filing of amendments upon the final adverse disposition of a confidential treatment request or the expiration of confidential treatment); *see also* Section II.G *infra.*

[122] *See* Special Instruction B.1 to proposed Form N–PX.

[123] Special Instruction B.4 to proposed Form N–PX.

[124] *See* Special Instructions B.4 and D.10 and Item 1(m) of proposed Form N–PX.

[125] *See* Special Instruction 5 to Form 13F.

[126] *Cf.* ABA Letter (observing that Form N–PX does not readily permit explanatory disclosure).

[127] *See* Item 1(f) of current Form N–PX; Item 1(g) of proposed Form N–PX.

[128] *See* 2010 Proposing Release, *supra* footnote 25, at text accompanying n.77.

[129] *See* Item 1(i) of Form N–PX.

[130] *See* Special Instruction D.8 of proposed Form N–PX.

[131] *See* 2010 Proposing Release, *supra* footnote 25, at text accompanying n.90.

[132] *See* CalPERS Letter; Levin Letter.

[133] *See* Stone Letter.

[134] Item 1(k) of proposed Form N–PX.

[135] *See* General Instruction E to proposed Form N–PX.

[136] General Instruction E to current Form N–PX.

presentation? Are there other limits we should consider?

46. Should we allow reporting persons to provide additional information relating to a particular vote after disclosing the required information about that vote, as proposed? What types of information might reporting persons wish to provide about particular votes? Does the proposal provide sufficient flexibility for reporting persons to provide such information, while also limiting the potential for optional disclosure that would impede the understanding or presentation of the required information?

47. To what extent do filers amend Form N–PX filings? What are the typical reasons for an amendment? Should all amended Form N–PX filings be required to restate all information in the prior filing? Should we require any additional clarifying language on amendment filings?

48. As proposed, should we require funds to distinguish between proposals and counterproposals when identifying matters proposed by security holders? Is it sufficiently clear to a fund when a matter proposed by a security holder should be classified as a proposal or counterproposal?

49. Should we, as proposed, clarify that managers are not required to disclose whether a matter was proposed by the issuer or by a security holder? Are there other requirements in Form N–PX that should only apply to funds? Are there requirements that should only apply to managers?

50. Does the change of required disclosure on Form N–PX to ''for or against management's recommendation'' clarify the intended purpose of the disclosure? Why or why not? Is additional clarification necessary? Should we instead require a narrative disclosure, as suggested by a commenter?

51. We are proposing to amend Form N–PX to add specific definitions to the instructions. Are the proposed definitions effective? Should we modify or remove any of the proposed definitions? Are there other definitions we should add to Form N–PX? Should we instead retain the current definitions section or remove this section, as proposed in the 2010 proposal?

52. Should we modify the proposed content requirements in any way for either managers or funds? Is there any information that we are proposing to require that should not be required? Is there additional information that should be required?

53. Should we provide any additional guidance on the contents of the proposed Form N–PX requirements?

D. Joint Reporting and Related Form N–PX Amendments To Accommodate Manager Reporting

1. Joint Reporting Provisions

Section 14A(d) of the Exchange Act requires a manager to report any say-on-pay vote unless such vote is otherwise required to be reported publicly by rule or regulation of the Commission. In order to implement this provision and prevent duplicative reporting, we are proposing three sets of amendments to Form N–PX to permit joint reporting, as well as associated disclosure requirements to identify all of a given manager's votes. The Commission proposed similar joint-reporting provisions in the 2010 proposal, and commenters supported this reporting framework.[137] Based on our experience with Form 13F reports, we believe that allowing consolidated reporting in this manner would yield reported data that would be at least as useful as separately reported data while reducing burden for reporting persons who may prefer to report jointly. Furthermore, we expect that the instructions we are proposing that require reports on Form N–PX to be structured and machine-readable would allow tools to be developed so that investors can sort and filter the data to view votes by the relevant manager.

The first amendment would permit a single manager to report say-on-pay votes in cases where multiple managers exercise voting power.[138] This method for preventing duplicative reporting is similar to that employed by Form 13F, which permits a single manager to include information regarding securities with respect to which multiple managers exercise investment discretion.[139]

In response to a similar provision in the 2010 proposal, one commenter suggested that we require a manager who receives a ballot be the primary filer that all other managers may reference in their filings.[140] We are not proposing this approach because we believe that the joint-reporting provisions should provide flexibility to address different types of voting arrangements. Moreover, under our current proposal, the manager who receives the ballot would not be required to report a say-on-pay vote on Form N–PX under all circumstances (*e.g.,* if it does not exercise voting power). Another commenter requested guidance on whether an adviser or a sub-adviser should be the primary filer when both exercise voting power. We do not believe it is necessary to specify who should report under these circumstances, because the joint reporting provisions are designed to provide flexibility to reporting persons to divide that responsibility among themselves or to each report independently.[141] This may in certain circumstances result in two managers reporting the same vote, for instance if two managers provide voting advice regarding the same securities and have not coordinated with each other regarding who will make a report on Form N–PX. Because both managers would exercise voting power (*i.e.,* would influence the voting decision) under these circumstances, we do not believe it would be inappropriate or confusing for those managers to report the same vote separately. Like reports on Form N–PX that rely on the joint reporting provisions, reports that separately disclose the same votes would provide insight to clients and other investors into how a manager voted.

The second proposed amendment would permit a fund to report its say-on-pay votes on behalf of a manager exercising voting power over some or all of the fund's securities.[142] This provision avoids a fund and its adviser each having to file duplicative reports regarding the same votes. Under our proposed approach, if a manager's say-on-pay votes are reported by one or more funds over whose securities the manager exercises voting power or by one or more other managers, the non-reporting manager would be required to file a Form N–PX report that identifies each manager and fund reporting on its behalf.[143]

The third proposed amendment would permit affiliates to file joint reports on Form N–PX notwithstanding that they do not exercise voting power over the same securities. The Commission did not propose a similar provision in 2010, but a few commenters suggested that we broaden the circumstances where affiliates may file joint reports.[144] These commenters

[137] *See, e.g.,* ABA Letter; Letter of The Colorado Public Employees' Retirement Association (Nov. 18, 2010) (''COPERA Letter''); CII Letter; IAA Letter.

[138] General Instruction C.1 to proposed Form N–PX.

[139] *See* 15 U.S.C. 78m(f)(6)(B) (directing the Commission to adopt such rules as it deems necessary or appropriate to prevent duplicative reporting by two or more managers exercising investment discretion with respect to the same amount); General Instruction 2 to Form 13F.

[140] *See* ISS Letter.

[141] *See* Brown Letter.

[142] General Instruction C.3 to proposed Form N–PX.

[143] General Instruction C.4 to proposed Form N–PX. *See infra* Section II.D.2 (discussing this proposed requirement).

[144] *See* Letter of Fidelity Investments (Nov. 18, 2010) (''Fidelity Letter'') (suggesting flexibility for

suggested that, to further promote operational efficiencies and ease potential administrative burdens, the Commission should permit affiliated managers to file jointly even where they do not jointly exercise voting power, and allow managers to report at the holding company level if they so choose.[145] After considering these comments, we are proposing to permit two or more persons who are affiliated persons to file a single report on Form N–PX for all affiliated persons in the group.[146] This joint reporting provision is designed to provide operational efficiencies without negatively affecting the quality or accessibility of the information reported on Form N–PX.

In all three cases, where another reporting person reports say-on-pay votes on a manager's behalf, the report on Form N–PX that includes the manager's votes would be required to identify the manager (and any other managers) on whose behalf the filing is made and separately identify the securities over which the non-reporting manager exercised voting power.[147] The manager's report on Form N–PX also would have to identify the other managers or funds reporting on its behalf.[148] This approach is designed to allow managers' clients and investors to easily search for all votes where the manager exercised voting power, whether or not those votes are reported on the manager's own Form N–PX.

Use of the proposed joint reporting provisions would be optional. For example, where multiple managers exercise voting power over the same securities, the managers could choose to report the relevant say-on-pay votes individually instead of relying on the joint reporting provisions. If a manager does not rely on the joint reporting provisions, it would not be subject to the disclosure requirements tied to joint reporting that facilitate identification of all of a manager's say-on-pay votes.[149] In this case, the manager's report on Form N–PX would provide its complete proxy voting record for say-on-pay votes during the reporting period, without reference to any other reports on Form N–PX, and would not include any votes where the manager did not exercise voting power.

We request comment on the proposal to address duplicative reporting and, in particular, on the following issues:

54. Should we, as proposed, permit a single manager to report say-on-pay votes in cases where multiple managers exercise voting power? Should we, as proposed, permit a manager to satisfy its reporting obligations by reference to the Form N–PX report of a fund that includes the manager's say-on-pay votes? Is there any reason not to permit joint reporting? For example, would joint reporting confuse investors or make Form N–PX harder to use? Would the potential for confusion or for reduced usability decline if, as proposed, Form N–PX reports were reported in a structured data language?[150] Are there other ways to address potentially duplicative reporting that are consistent with section 14A(d) of the Exchange Act that we should consider?

55. Should the rule and form amendments provide, as we are proposing, that two or more managers that are affiliated persons may file a joint report on a single Form N–PX notwithstanding that the managers do not exercise voting power over the same securities? Does this standard permit a level of consolidated reporting by corporate groups that is sufficient to address common arrangements? Are there other frameworks for consolidated reporting that would be more appropriate? Rather than use the Investment Company Act definition of ''affiliated person,'' is there a different standard we should use? For example, similar to Form 13F, should we deem a manager to exercise voting power over any securities over which any person under its control exercises voting power?

56. Would the ability of a manager to report say-on-pay votes that another manager or a fund also reports lead to investor confusion or inappropriate double-counting? Should we prohibit a manager from reporting say-on-pay votes that another manager or a fund also reports? Should any such prohibition be qualified based on a manager's knowledge, belief, or some other standard? Should a manager be required to take any steps to determine whether another manager or fund is reporting say-on-pay votes for the same securities? Would it confuse investors if, as provided in our proposal, joint reporting of say-on-pay votes is optional?

57. Are the joint reporting provisions necessary in light of differences between our current proposal's standard for exercising voting power and the 2010 proposal's standard of directly or indirectly having or sharing the power to vote or to direct the voting of a security? If so, are there any changes we should make to the joint reporting provisions to better align with our proposed standard of exercising voting power over a security?

2. The Cover Page

The Commission proposed changes to the cover page of Form N–PX in the 2010 proposal to address the addition of managers as a class of reporting persons and to help operationalize the joint reporting provisions. Commenters did not address these cover page changes, and we are proposing the same changes. Consistent with current Form N–PX cover page requirements, the proposed cover page of Form N–PX would require the name of the reporting person, the address of its principal executive offices, the name and address of the agent for service, the telephone number of the reporting person, identification of the reporting period, and the reporting person's file number.[151] We also propose that a manager provide its CRD number and other SEC file number, if any, which we believe would facilitate identification of other regulatory filings of the manager and interrelationships between managers who rely on the proposed joint reporting provisions.[152] We are proposing to require that the cover page include information to identify more readily whether the reporting person is a fund or a manager. If the reporting person is a manager, this information would also help investors identify reports filed by other managers and funds that contain say-on-pay votes of the reporting person under the joint reporting provisions. Specifically, the reporting person would be required to

affiliated managers to jointly file Form N–PX even where they do not share voting power); IAA Letter (suggesting flexibility for corporate groups to report at the holding company or subsidiary level regardless of whether they share voting authority).

[145] *Id.*

[146] *See* General Instruction C.2 to proposed Form N–PX; section 2(a)(3) of the Investment Company Act (defining ''affiliated person'').

[147] For example, in the case of a Form N–PX report that includes votes of multiple affiliated managers, the filing must identify each affiliate the report covers and separately identify the securities for which each affiliate exercised voting power.

[148] General Instructions C.5 and C.6 to proposed Form N–PX; Special Instructions C.2 and D.6 to proposed Form N–PX. *See infra* Sections II.D.3 and II.D.4 (discussing these proposed requirements in more detail).

[149] In this case, the manager would report on its own behalf and would not have to analyze if any other manager also is required to report the vote.

[150] Proposed rule 14Ad–1(a); Item 1 of proposed Form N–PX.

[151] In the case of a fund, the file number would be an Investment Company Act number beginning with ''811–.'' In the case of a manager, the file number would be a Form 13F number beginning with ''028–.''

[152] A CRD number is a number assigned by the Financial Industry Regulatory Authority's Central Registration Depository system or by the Investment Adviser Registration Depository system. The SEC file number would be any file number (*e.g.,* 801–, 8–, 866–, 802–) assigned by the Commission to the manager other than the manager's 13F file number, which all managers would be required to provide on the cover page. *See* Special Instruction B.3 of proposed Form N–PX.

check a box in order to identify the report as one of the following four types:

- Registered management investment company report;
- Manager ''voting'' report when the report contains all say-on-pay votes of the manager;
- Manager ''notice'' when the report contains no say-on-pay votes of the manager and all say-on-pay votes are reported by other managers or funds under the joint reporting provisions; and
- Manager ''combination'' report when the report contains some say-on-pay votes of the manager and some say-on-pay votes of the manager are reported by other managers or funds under the joint reporting provisions.

In addition, the cover page of a ''notice'' or ''combination'' report would include a list of the file numbers and names, as well as CRD numbers (if any), of the other managers and funds whose Form N–PX reports include say-on-pay votes of the reporting manager.[153] This cross-referencing, which is modeled after Form 13F requirements, will help investors locate the reports of say-on-pay votes by other such managers.[154]

We request comment on the proposed cover page of Form N–PX and, in particular, on the following issues:

58. Should we adopt the cover page of Form N–PX as proposed, or should we modify it in any way, *e.g.,* by adding or removing information? For example, should we require managers to include their CRD numbers and SEC file numbers, if any, as proposed? Should we also require managers to include their legal entity identifiers (''LEIs''), if any? [155] Would the proposed cover page adequately identify the reporting person and the reporting period? Would the proposed cover page sufficiently enable investors to identify a reporting person's Form N–PX report for a given period and any amendments to that report? Would the proposed cover page enable users to identify the type of reporting person?

59. In the case of a ''notice'' or ''combination'' report filed by a manager, would the proposed cover page adequately enable investors to identify reports filed by other persons that contain say-on-pay votes for which the manager exercised voting power? Should these reports be required to include a list of the file numbers and names, as well as CRD numbers (if any), of the other managers and funds whose Form N–PX reports include say-on-pay votes of the reporting manager, as proposed? Is there other information that would help investors find a given manager's votes?

60. Should ''notice'' filings contain any additional required disclosure? As currently contemplated, does the proposed notice filing requirement provide useful information to investors?

61. Is there additional information that would be helpful to include on the cover page of Form N–PX?

3. The Summary Page

We are proposing to add a new summary page to Form N–PX to enable investors to readily identify any additional managers (besides the reporting person) with say-on-pay votes included on the Form N–PX report.[156] The summary page would be required in any fund's Form N–PX report, as well as any manager's Form N–PX other than a ''notice'' filing.[157] Commenters did not address the proposed summary page requirements, and we are proposing the summary page requirements largely without any changes from the 2010 proposal.

The summary page of Form N–PX would require reporting persons to identify the names and total number of additional managers with say-on-pay votes included in the report in list format.[158] The proposed instructions to Form N–PX specify the contents of this information, including the title, column headings, and format.[159]

If a Form N–PX report includes the say-on-pay votes of additional managers, the summary page list would be required to include all such managers together with their respective Form 13F file numbers and, if any, CRD numbers and other SEC file numbers.[160] In addition, and similar to Form 13F, the proposal would require the reporting person to assign a number (which need not be consecutive) for each such manager, and present the list in sequential order.[161] These numbers would help identify the particular manager(s) who exercised the power to vote the securities. While we are proposing the sequential numbering requirement to make the list easier to use, the proposal would permit non-consecutive numbering to allow managers to retain the same number across filings of different reporting persons and different time periods.

If a Form N–PX filing does not disclose the proxy votes of a manager other than the reporting person, the reporting person would enter the word ''NONE'' under the title and would not include the column headings and list entries.[162]

To the extent a fund's report on Form N–PX includes the votes of multiple series, the summary page would require the name and the series identifier (if any) of each series.[163] We believe this would assist investors in discerning the funds covered by the Form N–PX report. While the Commission did not propose this requirement in 2010, the Commission has since adopted Form N–CEN and Form N–PORT, which contain similar series identification requirements for funds.[164]

We request comment on the proposed summary page of Form N–PX and, in particular, on the following issues:

62. Should we adopt the summary page of Form N–PX, as proposed, or should we modify it in any way? For example, should we require the inclusion of additional information with respect to the additional managers in the list? What information would be helpful for investors to review in summary format? Would such information be practicable for the reporting person to acquire and report? Should we remove any of the proposed information requirements, such as the requirements for CRD numbers and other SEC file numbers for managers, if any?

63. Would the proposed sequential and/or non-consecutive listing of other managers in the summary page help investors identify specific managers? Is the other identifying information we are proposing to require (including a manager's 13F file number and, if any, CRD number and other SEC file numbers) sufficient for purposes of identifying managers whose votes are included in a given report?

---

[153] Special Instruction B.2 to proposed Form N–PX.

[154] *See* Special Instruction 6 to Form 13F.

[155] An LEI is a unique identifier generally associated with a single corporate entity and is intended to provide a uniform international standard for identifying counterparties to a transaction.

[156] For example, this disclosure might contain managers included under the joint reporting requirements. *See* Special Instruction B.2.b–d of proposed Form N–PX.

[157] Special Instructions B.2.a–d of proposed Form N–PX. The summary page would not be required in a ''notice'' report by managers because, since the notice report would not contain any say-on-pay votes at all, it would not report any say-on-pay votes of other managers.

[158] Special Instruction C.1 to proposed Form N–PX.

[159] Special Instruction C.2 to proposed Form N–PX.

[160] Special Instruction C.2.b to proposed Form N–PX.

[161] *Id.; see also* Special Instruction 8.b to Form 13F.

[162] Special Instruction C.2.a to proposed Form N–PX.

[163] Special Instruction C.3 to proposed Form N–PX.

[164] Item B.6.a.ii of Form N–CEN; Item A.2 of Form N–PORT.

64. Would the proposed summary page enable investors to readily identify any managers whose say-on-pay votes are included in a Form N–PX report? Would additional formatting constraints be helpful?

65. Should there be additional summary page requirement differences between funds and managers?

66. Should we, as proposed, require fund Form N–PX reports that include the votes of multiple series to identify on the summary page the names and EDGAR identifier of each series that the report covers? Is there other information we should require of funds that would enable investors to more easily identify which funds the report covers? For example, should we also require disclosure of the series' LEI?

67. Should we provide any exceptions to the summary page reporting requirement? If so, how should any such exception be defined?

68. We request information on how clients of managers or other investors would utilize the information contained on the summary page. Would it provide useful data?

4. Other Proposed Amendments to Form N–PX To Accommodate Manager Reporting

We are proposing other modifications to the format and content of the information currently required by Form N–PX to accommodate the proposed requirement for managers to report on Form N–PX. Specifically, we are proposing to require a manager to report the number of shares the manager is reporting on behalf of another manager pursuant to the joint reporting provisions separately from the number of shares the manager is reporting only on its own behalf.[165] A manager would also be required to separately report shares when the groups of managers on whose behalf the shares are reported are different. For example, if the reporting manager is reporting on behalf of Manager A with respect to 10,000 shares and on behalf of Managers A and B with respect to 50,000 shares, then the groups of 10,000 and 50,000 shares must be separately reported. Similarly, a fund would be required to separately report shares that are reported on behalf of different managers or groups of managers.[166] We believe this requirement would further our goal of providing meaningful information to investors by allowing investors to clearly see how a particular manager exercised voting power.

One commenter suggested limiting disclosure regarding manager shared voting power to the summary page of Form N–PX.[167] We are not proposing this approach because we believe it would make it difficult for investors to identify which entities are responsible for the particular say-on-pay votes reported, which would undermine the purpose of reporting say-on-pay votes. The summary page is intended to identify any additional managers (besides the reporting person) with say-on-pay votes included on the Form N–PX report. We believe disclosure with respect to shared voting power should be included in the body of Form N–PX containing proxy voting information, in order to assist identifying which of the votes reported on Form N–PX were those over which the manager exercised voting power.

We request comment on the other proposed amendments to Form N–PX to accommodate new reporting requirements for managers, including the following:

69. Should we, as proposed, require a reporting person relying on the joint reporting provisions to identify, for each applicable vote reported, each manager who exercised voting power as to the securities voted? Why or why not? Alternatively, would it be sufficient to require a reporting person to disclose on the summary page the managers for whom it is reporting, without identifying, for each vote reported, the managers that exercised voting power?

70. Are there other changes we should make to Form N–PX to accommodate manager say-on-pay vote reporting requirements?

E. Form N–PX Reporting Data Language

We are proposing to require reporting persons to file reports on Form N–PX in a structured data language.[168] In particular, and as discussed in more detail below, we are proposing to require filing of Form N–PX reports in a custom eXtensible Markup Language (''XML'')-based structured data language created specifically for reports on Form N–PX (''custom XML'').[169] We believe use of a custom XML language would make it easier for reporting persons to prepare and submit the information required by Form N–PX accurately, and would make the submitted information more useful.

Reports on Form N–PX are currently required to be filed in HTML or ASCII.[170] We understand that, in order to prepare reports in HTML and ASCII, reporting persons generally need to reformat required information from the way the information is stored for normal business uses. In this process, reporting persons typically strip out incompatible metadata (*i.e.,* syntax that is not part of the HTML or ASCII specification) that their business systems use to ascribe meaning to the stored data items and to represent the relationships among different data items. The resulting code, when rendered in an end-user's web browser, is comprehensible to a human reader, but it is not suitable for automated validation or aggregation.

The Commission requested comment in both the 2010 Proposing Release and the Proxy Mechanics Concept Release on whether to require reporting of the information required by Form N–PX in a structured data language.[171] Among other things, we requested comment on the feasibility of identifying proxy voting matters in a uniform way and on the costs of providing data in a

[165] *See* Special Instruction D.6 to proposed Form N–PX. *See also supra* Section II.D.1 (discussing the proposed joint reporting provisions).

[166] *See id.* We are also clarifying, as a commenter suggested, that reporting persons would not be required to report shares separately when they are not relying on the joint reporting provisions, even if another manager exercised voting power over some of the shares reported. *See* IAA Letter.

[167] *See* ISS Letter.

[168] *See* General Instruction D.2. of proposed Form N–PX (specifying that reporting persons must file reports on Form N–PX electronically on EDGAR, except as provided by the form's confidential treatment instructions, and consult the EDGAR Filer Manual for EDGAR filing instructions). *See also* 17 CFR 232.301 (requiring filers to prepare electronic filings in the manner prescribed by the EDGAR Filer Manual). We are also proposing to amend rule 101(a)(1)(iii) of Regulation S–T to provide that reports filed pursuant to section 14A(d) of the Exchange Act must be submitted in electronic format. Reports filed pursuant to section 30 of the Investment Company Act are already subject to electronic filing. *See* rule 101(a)(1)(iv) of Regulation S–T.

[169] This would be consistent with the approach used for other XML-based structured data languages created by the Commission for certain EDGAR Forms, including the data languages used for reports on each of Form N–CEN, Form N–PORT, and Form 13F.

[170] *See* Regulation S–T, 17 CFR 232.101(a)(1)(iv); 17 CFR 232.301; EDGAR Filer Manual (Volume II) version 58 (June 2021), at 5–1 (requiring EDGAR filers generally to use ASCII or HTML for their document submissions, subject to certain exceptions).

[171] 2010 Proposing Release, *supra* footnote 25, at text subsequent to footnote 91 (''Are there methods other than standardizing the order of information that would render the information reported on Form N–PX more useful? Should we require reporting persons to provide the information reported on Form N–PX in interactive data format?''); Proxy Mechanics Concept Release, *supra* footnote 60 at text accompanying n. 225. The 2010 Proposing Release and the Proxy Mechanics Concept Release referred to an ''interactive data format.'' Some comments on these releases similarly referred to an ''interactive data format.'' For purposes of this release, we consider the terms ''interactive data format'' and ''structured data language'' to be synonymous and use the terms ''structured data language'' or ''structured data'' throughout for consistency.

structured data language.[172] Commenters on these releases were mixed. Commenters that expressed support suggested that structured data would: Improve investor analysis or allow for more informed decision-making, improve third-party analyses of voting information or reduce the costs associated with preparing them, and generally benefit investors or improve the usefulness and accessibility of reported data.[173] The Commission's Investor Advisory Committee also recommended that reports on Form N–PX be filed in a structured data language, stating that investors would be better able to assess the voting records of mutual funds.[174] We believe that the modifications we are proposing regarding the identification of proxy voting matters would result in reported data that is sufficiently standardized to make structured data useful for interested parties.[175]

Two commenters on the Proxy Mechanics Concept Release urged the Commission to evaluate its then-new structured data requirements before adopting similar requirements elsewhere.[176] In the time since the Commission issued the 2010 Proposing Release and the Proxy Mechanics Concept Release, we have gained additional experience with different reporting data languages, including with reports in an XML-based structured data language. For example, we have used customized XML data languages for reports filed on Form N–CEN, Form N–PORT, and Form 13F.[177] We have found the XML-based structured data languages used for those reports allow investors to aggregate and analyze reported data in a much less labor-intensive manner than data filed in ASCII or HTML. Based on our consideration of comments and our understanding of how fund and managers currently disclose required information in a structured data language, we believe that requiring a custom XML language for Form N–PX would minimize reporting costs while yielding reported data that would be more useful to investors. Reporting persons would be able to, at their option, either submit XML reports directly or use a web-based reporting application developed by the Commission to generate the reports, as managers are able to do today when submitting holdings reports on Form 13F.

Some commenters observed that interested data users can procure structured voting data from third-party service providers.[178] Another commenter, however, expressed concerns with the cost, comprehensiveness, and timeliness of the data cited by those commenters.[179] While similar data may be available commercially, we believe that this information should be made freely available to investors and that current users of data made available by third-parties could nonetheless benefit from structured Form N–PX reports if the costs associated with third-party data analysis fell.

One commenter stated that it did not believe shareholders were interested in proxy voting information using a structured data language.[180] Other commenters and the Investor Advisory Committee, however, have indicated that investors would benefit from proxy voting data reported in a structured data language. Among other things, commenters have noted that structured data would improve investor analysis or allow for more informed decision-making.[181] We believe that reporting in custom XML language will allow investors to aggregate and analyze the reported data in a much less labor-intensive manner.

One commenter stated that a structured data reporting requirement would increase reporting costs, noting the costs of reporting data in both the current ASCII or HTML markup language, as well as any structured data language.[182] Another commenter suggested it would not be necessary to continue to require ASCII or HTML reporting, in addition to reporting in a structured data language, because data in a structured data language could be translated to human-readable form in an automated manner and at low cost.[183] In order to minimize reporting burdens, we are proposing to replace the ASCII or HTML reporting requirement with the custom XML reporting requirement. We recognize that current Form N–PX filers could bear some additional reporting costs related to adjusting their systems to a different data language. However, in the intervening time period since the 2010 proposal, many reporting persons have acquired substantial experience with reporting on web-based applications (or directly submitting information in a structured data language). We believe that aligning Form N–PX's reporting data language with the type of data language of other required reports may reduce costs and introduce additional efficiencies for reporting persons already accustomed to reporting using structured data and may reduce overall reporting costs in the longer term.[184]

Finally, a commenter indicated that there would be costs associated with rendering the reported data in a form that could be comprehensible to a human reader.[185] We agree that there would be some costs associated with rendering XML data in a human-readable format, and we believe that it is appropriate for the Commission to bear these costs. We are proposing that the Commission would develop electronic ''style sheets'' that, when applied to the reported XML data, would represent that data in human-readable form. We developed similar style sheets for holdings data reported by managers in XML on Form 13F, and they have yielded useful, consistently formatted documents.

We request comment on the reporting data language we are proposing to require for reports filed on Form N–PX, and, in particular, on the following issues:

---

[172] 2010 Proposing Release, *supra* footnote 25, at requests for comment subsequent to n. 91; Proxy Mechanics Concept Release, *supra* footnote 60, at requests for comment at n. 225.

[173] Letter of Broadridge Financial Solutions (Oct. 19, 2010) (File No. S7–14–10) (''Broadridge Letter on Concept Release''); Florida Board Letter on Concept Release,; ISS Letter on Concept Release; Letter of Dominic Jones (Nov. 2, 2010) (''Jones Letter''); Ostrovsky Letter on Concept Release; Proxy Exchange Letter on Concept Release; Letter of Shareowners Education Network (Oct. 20, 2010) (File No. S7–14–10) (''Shareholder Education Letter on Concept Release''); Towns Letter on Concept Release; Letter of VoterMedia.org (Sept. 29, 2010) (File No. S7–14–10) (''VoterMedia Letter on Concept Release'').

[174] *See supra* footnote 22.

[175] *See supra* Section II.C.1 (Identification of Proxy Voting Matters). Some commenters agreed with statements in the 2010 Proposing Release and the Proxy Mechanics Concept Release suggesting that having uniform identification of proxy voting matters would make structured data more useful. *See* Fidelity Letter on Concept Release; ICI Letter on Concept Release; *see also* Ostrovsky Letter on Concept Release (indicating that uniform identification is essential, but feasible).

[176] Fidelity Letter on Concept Release; ICI Letter on Concept Release.

[177] *See e.g.,* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (adopting Form N–CEN and Form N–PORT); Adoption of Updated EDGAR Filer Manual, Securities Act Release 9403 (May 14, 2013) [78 FR 29616 (May 21, 2013)] (requiring managers to report their holdings in an XML-based structured data language on Form 13F).

[178] Fidelity Letter on Concept Release; ICI Letter on Concept Release.

[179] *See* Ostrovsky Letter on Concept Release.

[180] ICI Letter on Concept Release.

[181] *See supra* footnote 173 and accompanying text.

[182] ICI Letter on Concept Release.

[183] Ostrovsky Letter on Concept Release.

[184] *See infra* Section IV.

[185] ICI Letter on Concept Release (noting that the Proxy Mechanics Concept Release did not make clear who would bear those costs); *but see* Ostrovsky Letter on Concept Release (characterizing these costs as ''trivial'').

71. Should we require, as we are proposing, Form N–PX reports to be filed in a custom XML language? Is a custom XML language the appropriate type of data language for Form N–PX reports? Why or why not? If another structured data language would be more appropriate, which one, and why?

72. Would this proposed requirement yield reported data that is more useful to investors, compared with not requiring Form N–PX to be filed in a custom XML language, or requiring Form N–PX to be filed in a structured data language other than a custom XML language?

73. Are the standardized identification requirements we are proposing compatible with the proposed reporting data language?

74. Should any subset of funds or managers be exempt from the proposed structured data reporting requirement? If so, what subset and why?

F. Time of Reporting

Currently, funds must report their proxy voting records annually on Form N–PX no later than August 31 of each year, for the most recent 12-month period ended June 30.[186] We are proposing to retain the same reporting timeframe for funds and to apply this reporting timeframe to managers' reporting of say-on-pay votes.[187] Commenters on the 2010 proposal generally supported retaining the current reporting timeframe, though certain commenters advocated for longer or shorter timeframes.[188]

We preliminarily believe that the proposed reporting timeframe for managers—and retaining the current reporting timeframe for funds—appropriately balances the benefits of prompt reporting and the burdens associated with that reporting. We are not proposing to require, as suggested by one commenter, that managers and funds report their votes shortly after the relevant shareholder meeting.[189] We preliminarily believe that the benefits of public reporting of proxy votes by funds and managers would not significantly increase with faster reporting and that publicly reporting each vote individually would make it difficult for investors reading a manager's Form N–PX reports to evaluate overall patterns in the manager's voting behavior.

As it relates to managers' reporting of say-on-pay votes, the relevant proposals are typically unique to the issuer in question and votes may be heavily dependent on the particular facts and circumstances applicable to that issuer. Moreover, because such votes are reported on a retrospective basis, investors will not necessarily be able to use the information reported by managers on Form N–PX to engage in a dialogue with their manager about its voting policies or to switch to a manager who will vote differently with respect to any specific say-on-pay vote.[190] In the context of fund reporting of proxy votes, however, we are mindful of the fact that similar proposals often appear on the ballots of many issuers in a given proxy season, especially those issuers within the same industry. In these instances, timelier public reporting of funds' proxy votes has the potential to facilitate fund shareholders' ability to monitor their funds' involvement in the governance activities of portfolio companies, including within a single proxy season.[191] We request comment below on whether the benefits of timelier reporting of proxy votes—including those of both managers and funds—might outweigh any potential drawbacks.

We also are not proposing, as some commenters on the 2010 proposal suggested, to extend the deadline for filing reports from August 31 to a later date because of additional proposed disclosure requirements.[192] We believe that further delay after the close of the reporting period is unnecessary, particularly in light of other changes from the 2010 proposal that we believe should result in reporting persons having sufficient time to gather the data necessary to make the filing, such as the reduction in the quantitative information required to be disclosed.[193]

We request comment on the proposed reporting timeframe for filing Form N–PX reports and, in particular, on the following:

75. Should we, as proposed, require funds to file their proxy voting records on the same reporting timeline as currently required? Would investors benefit from more timely reporting of funds' proxy votes? Please explain. Do funds need more time than currently permitted to file Form N–PX reports that include the new disclosure this proposal would require? If so, why, and how much time?

76. Should we, as proposed, require managers to report their say-on-pay votes annually on Form N–PX not later than August 31, for the most recent 12-month period ended June 30? Should we instead require reporting as of some other period end date (*e.g.,* May 31 or December 31), or with a shorter or longer lag period after the end reporting period (*e.g.,* a 45-day lag period to align with Form 13F)?

77. Should we require reporting for managers and funds to occur more frequently than annually, such as monthly, quarterly, or close in time to each vote? Should we require more frequent voting to be reported on firm websites and annual reporting on Form N–PX? For example, should we require funds and managers to report their votes on a monthly or quarterly basis on their websites, and annually on Form N–PX? Would requiring more frequent reporting to occur on managers' and funds' websites rather than on Form N–PX mitigate any of the potential issues with more frequent reporting, such as the cost of reporting or the ability of investors to read and identify patterns in fund or manager voting records?

78. Would investors benefit from more frequent voting disclosure? For example, would more frequent disclosure enhance fund shareholders' ability to monitor their funds' involvement in the governance activities of portfolio companies? Conversely, would investors generally be most interested in analyzing a reporting person's voting record more holistically rather than focusing on individual votes on more frequent intervals or shortly after a vote is held? What are the advantages and disadvantages of more frequent reporting of proxy votes?

79. Certain types of funds, such as index funds and the majority of

[186] *See* rule 30b1–4 under the Investment Company Act. We refer to this twelve-month period ending on June 30 of each year as the ''reporting timeframe'' or the ''timeframe.''

[187] Proposed rule 14Ad–1(a); General Instruction A to proposed Form N–PX. The timing of a manager's Form N–PX filing obligations would differ when the manager enters and exits from the obligation to file Form 13F reports. *See infra* Section II.J.

[188] *See, e.g.,* ABA Letter; CalPERS Letter; CII Letter; COPERA Letter; Glass Lewis Letter I; *but see* Jones Letter (requesting that managers and funds be required to report their votes on Form N–PX within four business days of each shareholder meeting); Letter of Adrienne Brown of Nationwide Investment Management Group (Nov. 18, 2010) (''Brown Letter'') (suggesting a later filing deadline, such as September or October); Fidelity Letter (suggesting the filing deadline be moved from August 31 to October 31).

[189] *See* Jones Letter.

[190] Requiring managers to disclose their intended votes on a prospective basis would allow investors to make such a change, but such an approach would be inconsistent with the statute and we are not proposing it here.

[191] Shareholders of a given fund may be able to monitor the fund's proxy voting record to evaluate whether the fund's votes are consistent with its disclosure. This information would promote shareholders' ability to engage with fund management on timely issues in the midst of proxy season, including as it relates to future votes on the same subject matter at another issuer.

[192] *See* Brown Letter; Fidelity Letter.

[193] *See supra* Section II.C.3 (discussing modifications to the proxy voting information required on Form N–PX).

exchange-traded funds, provide a degree of transparency as to their holdings more frequently than required by Form N–PORT. Transparency as to these funds' holdings arises as a result of either: (1) Full portfolio disclosure (in the case of transparent ETFs), or (2) the tracking of an index whose constituents and weightings are transparent (in the case of index funds). Because of this transparency, more frequent disclosure of these funds' proxy voting records might not contribute to the potential risks otherwise associated with such a requirement. Should the Commission require more frequent or timely disclosure of proxy voting information for these or other types of funds whose characteristics mitigate the risks of such a requirement?

80. Should funds and managers file Form N–PX reports on the same schedule, as proposed? Are there reasons they should be subject to different reporting schedules?

G. Requests for Confidential Treatment

The information filed on Form N–PX would be publicly available through the Commission's EDGAR system, as is information filed on Form 13F.[194] Certain managers filing reports on Form 13F request confidential treatment of certain or all the positions reported on their Form 13F, and those managers may request that confidential information reported on their Form 13F also be treated as confidential on their Form N–PX.[195] Pursuant to 17 CFR 240.24b–2 under the Exchange Act (''rule 24b–2''), which governs requests for confidential treatment of information required to be filed under the Act, a manager can request confidential treatment of information reported on proposed Form N–PX.[196]

Managers seeking confidential treatment for information on their Form 13F are required to file multiple lists of securities. One, filed publicly, lists only those securities for which it is not seeking confidential treatment, as well as a statement indicating that confidential information has been omitted and filed with the Commission. Managers must also file a separate list including those securities positions for which the manager seeks confidential treatment. Confidential treatment granted by the Commission may be subject to an expiration date, as is often the case when confidential treatment is granted to protect commercial information, such as a position that is still being built. Therefore, when the confidential treatment period ends, or if the confidential treatment request is denied, the manager must file an additional report on Form 13F publicly disclosing those securities for which confidential treatment expired, or was denied.

We are proposing instructions in Form N–PX that are designed to provide a similar opportunity to prevent confidential information that is protected from disclosure on Form 13F from being disclosed on Form N–PX.[197] These instructions provide that a person requesting confidential treatment of information filed on Form N–PX should follow the same procedures set forth in Form 13F for filing confidential treatment requests. They also prescribe the required content of a confidential treatment request and the required filing of information that is no longer entitled to confidential treatment.[198] For instance, the confidential treatment request would be required to provide enough factual support for the request, including a demonstration that the information is both customarily and actually kept private by the reporting person, and that release of this information could cause harm to the reporting person. Although this differs somewhat from the current language in Form 13F regarding confidential treatment requests, we are proposing this standard in Form N–PX to conform to a June 2019 U.S. Supreme Court decision that overturned the standard for determining whether information is ''confidential'' under Exemption 4 of the FOIA on which the current Form 13F instruction is based.[199]

In light of the public disclosure intent of section 14A(d) and the confidential treatment requirements of rule 24b–2 under the Exchange Act, we believe that confidential treatment generally would not be merited solely in order to prevent proxy voting information from being made public. One commenter on the 2010 Proposing Release suggested that we should expand the standards for requesting and obtaining confidential treatment to cover situations in which a manager has a confidentiality agreement with a client regarding disclosure of portfolio information.[200] We do not believe that such a private agreement should override the requirement to report proxy voting information publicly. We believe that confidential treatment could be justified only in narrowly tailored circumstances. For example, confidential treatment may be justified when a manager has filed a confidential treatment request for information reported on Form 13F that is pending or has been granted and where confidential treatment of information filed on Form N–PX would be necessary in order to protect information that is the subject of such Form 13F confidential treatment request, and the information is also

[194] *See* rule 80(c)(3) promulgated under the Freedom of Information Act [17 CFR 200.80(c)(3)] (stating that filings made through the EDGAR system are publicly available on the Commission's website).

[195] Requests for confidential treatment can be based either on a claim that the information would identify securities held by the account of a natural person or an estate or trust, other than a business trust or investment company, in which case the Commission is required to keep the information confidential indefinitely, or on a claim that the information is confidential commercial or financial information (consistent with the requirements of Freedom of Information Act (''FOIA'') Exemption 4), in which case the grant is discretionary and generally only for a period of time. *See generally* sections 13(f)(4) and (5) of the Exchange Act [15 U.S.C. 78m(f)(4)] [15 U.S.C. 78m(f)(5)]; Form 13F Instructions for Confidential Treatment Requests; Rulemaking for EDGAR System, Investment Company Act Release No. 23640 (Jan. 12, 1999) [64 FR 2843].

[196] *See* 17 CFR 240.24b–2; Confidential Treatment Instruction 1 to proposed Form N–PX. The confidential treatment instructions we are proposing for Form N–PX are based on the Form 13F confidential treatment instructions, which apply in similar circumstances. *See* Form 13F Instructions for Confidential Treatment Requests.

[197] Section 13(f)(4) of the Exchange Act provides that the Commission, as it determines to be necessary or appropriate in the public interest or for the protection of investors, may delay or prevent public disclosure of information filed on Form 13F in accordance with the Freedom of Information Act. Section 13(f)(4) also provides that any information filed on Form 13F that identifies the securities held by the account of a natural person or an estate or trust (other than a business trust or investment company) shall not be disclosed to the public. As a result, we are unable to conclude, in advance, that confidential treatment of information filed on Form N–PX could, under no circumstances, be appropriate as suggested by one commenter. *See* Barnard Letter.

[198] Confidential Treatment Instructions to proposed Form N–PX. Upon the final adverse disposition of a request for confidential treatment, or upon the expiration of the confidential treatment, a reporting person would be required to electronically submit within six business days an amendment to its Form N–PX reporting the previously confidential proxy voting information. *See* Confidential Treatment Instruction 7 to proposed Form N–PX. Such amendment specifically would make publicly available through the Commission's EDGAR system the proxy voting information that previously was confidential. In the event that the required amendment is not filed, the Commission could make the proxy voting information available to the public through other means.

[199] 5 U.S.C. 552(b)(4). *See Food Marketing Institute* v. *Argus Leader Media,* 139 S.Ct. 2356 (2019) (''Food Marketing v. Argus Leader'') (stating that ''[a]t least where commercial or financial information is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy, the information is 'confidential' within the meaning of Exemption 4''); *see also* Reporting Threshold for Institutional Investment Managers, Exchange Act Release No. 89290 (July 10, 2020) [85 FR 46016 (July 31, 2020)] (proposing a similar conforming amendment to the confidential treatment instructions in Form 13F).

[200] Mayer Brown Letter.

customarily treated as private, non-public information by the manager.[201]

Existing Form N–PX does not include any confidential treatment instructions and, apart from Form N–PX, funds already disclose their portfolio holdings.[202] As a result, we are not aware of any situation in which confidential treatment would be justified under rule 24b–2 for information filed by funds on Form N–PX.

We request comment on the proposed provisions regarding confidential treatment requests, including the following:

81. Should we modify the proposed confidential treatment provisions in any way? Would it be appropriate to tie the confidential treatment provisions for Form N–PX to the confidential treatment provisions for Form 13F, for example by automatically granting confidential treatment for positions reported on Form N–PX when confidential treatment has been granted for those positions on Form 13F?

82. As proposed, should we require reporting persons to file confidential treatment requests for Form N–PX in the same manner as Form 13F requires? Are there reasons for the filing processes for confidential treatment requests to differ between the two forms? If so, what approach should we permit or require reporting persons to use to file confidential treatment requests for Form N–PX?

83. Do the proposed instructions for confidential treatment requests appropriately reflect the current requirements of FOIA, including the effect of the U.S. Supreme Court's June 24, 2019, decision in *Food Marketing Institute* v. *Argus Leader Media* on the type of information that is required to substantiate confidential treatment in accordance with rule 24b–2 under the Exchange Act?

84. Are there circumstances in which say-on-pay votes should be publicly disclosed but our proposal could permit confidential treatment? Alternatively, are there circumstances in which our proposal would require public disclosure of a say-on-pay vote but where confidential treatment should be granted? Please explain.

85. Should we allow funds to request confidential treatment under some circumstances? For example, should we allow a fund to request confidential treatment of votes on securities that were reported in the ''miscellaneous securities'' category of its most recent disclosure of its portfolio holdings? If so, why should the result under the proposed rule differ from the result under current Form N–PX?

H. Proposed Website Availability of Fund Proxy Voting Records

When the Commission adopted Form N–PX in 2003, it also required a fund to disclose that its proxy voting record is available to shareholders, either on (or through) the fund's website or upon request.[203] We understand that, currently, most funds make their proxy voting records available to shareholders upon request but do not provide this information on their websites. We are proposing amendments to Forms N–1A, N–2, and N–3 to require a fund to disclose that its proxy voting record is publicly available on (or through) its website and available upon request, free of charge in both cases.[204] We believe this proposed change would make a fund's proxy voting record more accessible to investors. Investors' access to the internet has increased substantially since 2003, and many investors go to fund or intermediary websites to get information about a fund.[205] Because the proposal would require funds to file Form N–PX reports in a custom XML language, we are proposing to specify that the proxy voting record the fund posts on its website and provides upon request must be in a human-readable format. A fund could comply with this requirement by using the human-readable version of its Form N–PX report that would appear on EDGAR (*e.g.,* by providing a direct link on its website to the HTML-rendered Form N–PX report on EDGAR).

We also propose to make conforming changes to Form N–1A and Form N–3 provisions that discuss how a fund may make its proxy voting record available on request to require a fund to provide the email address, if any, that an investor may use to request the proxy voting record. Form N–2 currently includes a similar provision, while Form N–1A and Form N–3 only refer to a fund providing a toll-free telephone number.

We request comment on our proposed amendments to Forms N–1A, N–2, and N–3 to require funds to disclose that their proxy voting records are available on websites and upon request, including the following:

86. Should we require funds to disclose that their proxy voting records is publicly available on (or through) their websites, free of charge and in a human-readable format, as proposed? Why or why not?

87. Should we only require a fund to disclose that its proxy voting record is publicly available on (or through) its website, and not also require disclosure that the record is available upon request? Do investors need the option to request a copy of a fund's proxy voting record, or is website availability sufficient? If we retain the availability upon request provisions, should we require a fund to provide the email address, if any, that investors can use to request the proxy voting record, as proposed? If not, why not? Are there any other changes we should make that relate to an investor's ability to request delivery of a fund's proxy voting record, including that relate to the timeframe in which a fund delivers the voting record?

88. Are there other ways we could improve the accessibility of funds' proxy voting records for investors? Please explain.

---

[201] In the case of information that is not reported on Form 13F but would have been the subject of a Form 13F confidential treatment request if it were required to be reported (for example, a *de minimis* position that is not required to be reported on Form 13F but would have been eligible for confidential treatment if it were required to be reported on the form), we would follow similar procedures and apply similar standards to those followed for reports on Form 13F in processing requests for confidential treatment of information filed on Form N–PX.

[202] Portfolio holdings information is required to be disclosed by funds on a quarterly basis with a 60-day lag, through semiannual shareholder reports pursuant to rule 30e–1 under the Investment Company Act [17 CFR 270.30e–1] and Form N–PORT [17 CFR 274.150]. An exception exists for ''miscellaneous securities'' comprising less than 5% of a fund's portfolio and held for less than one year, but the number of votes relating to the securities in that category is generally expected to be small because of its short-term nature.

[203] *See* Form N–PX Adopting Release, *supra* footnote 7; Items 17(f) and 27(d)(5) of Form N–1A; Items 18.16, 24.6.d, and 24.8 of Form N–2; Item 23(f) and Instructions 4(d) and 6 to Item 31(a) of Form N–3.

[204] *See* proposed amendments to Items 17(f) and 27(d)(5) of Form N–1A; proposed amendments to Items 18.16, 24.6.d, and 24.8 of Form N–2; proposed amendments to Item 23(f) and Instructions 4(d) and 6 to Item 31(a) of Form N–3. The Commission has proposed other amendments that would replace current Item 27(d)(5) of Form N–1A with disclosure about the availability of different types of information for investors, including proxy voting information. *See* Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements, Investment Company Act Release No. 33963 (Aug. 5, 2020) [85 FR 70716 (Nov. 5, 2020)] (''Tailored Shareholder Reports Proposing Release''). If those amendments were to be adopted, we would not amend current Item 27(d)(5) of Form N–1A as part of this rulemaking because it would no longer exist in its current form.

[205] *See, e.g.,* ICI Research Perspective, ''Ownership of Mutual Funds, Shareholder Sentiment, and Use of the internet, 2020'' (Nov. 2020) (noting that 96 percent of households owning mutual funds had internet access in 2020, up from 68 percent in 2000), available at *https://www.ici.org/system/files/attachments/per26-08.pdf;* Tailored Shareholder Reports Proposing Release, *supra* footnote 204, at n.69 and accompanying text.

I. Compliance Dates

As described above, we are proposing that managers would be required to report their say-on-pay votes annually on Form N–PX not later than August 31 of each year, for the most recent 12-month period ended June 30.[206] We are proposing compliance dates that would vary depending on when the amendments become effective relative to the form's reporting deadline.

In the 2010 Proposing Release, we proposed that the first reports under then-proposed rule 14Ad–1 and amended Form N–PX would be required to be filed by August 31, 2011 (the same calendar year as the earliest anticipated adoption date). A number of commenters requested a delay in filing due to the compliance burden during initial implementation, with some commenters suggesting a compliance date as late as August 31, 2012 (*i.e.* one calendar year after the proposed compliance date),[207] or covering votes beginning no earlier than six months after such proposed rule's effective date.[208]

We agree with commenters that a longer compliance period is appropriate to provide reporting persons with a sufficient transition period to implement the changes that would be needed to record and report the information required by amended Form N–PX. We similarly provided a period between the effective date and the beginning of required compliance when we adopted proxy vote reporting requirements for funds.[209] We are therefore proposing that, if the amendments are effective six months before June 30, the first reports on amended Form N–PX would be required to be filed by the August 31 that follows the rule's effective date. For a fund, the first report would disclose votes occurring at least six months after the effective date in conformance with the amended form, while applicable votes occurring before this period could be reported in conformance with current form requirements. A manager's requirement to report votes would begin six months after the effective date, since managers are not currently subject to Form N–PX reporting requirements. For example, if the amendments become effective on September 1, 2022, reporting persons would be required to report votes occurring between March 1, 2023 and June 30, 2023 in compliance with the amended form and include those votes in a report filed by August 31, 2023.

If the amendments are not effective six months before June 30, funds and managers would be required to file their first reports on amended Form N–PX by August 31 of the first complete reporting timeframe following the effective date of the proposed rule. As with the prior compliance date alternative, the first reports would be required to disclose votes occurring six months after the effective date of the amendments and thereafter in conformance with the amended form. That is, if the proposed rule takes effect on February 1, 2022, the first reports on amended Form N–PX would be due on August 31, 2023. For a fund, the first report would cover the reporting period of July 1, 2022 through June 30, 2023, with votes occurring between August 1, 2022 and June 30, 2023 reported in conformance with the amended form. For a manager, the first report would cover votes occurring between August 1, 2022 and June 30, 2023.

We believe that, under either alternative, the initial reporting period would allow reporting persons and their third-party service providers additional time to develop or modify the necessary systems in order to record and report information on amended Form N–PX.

We are proposing to require funds to comply with the amendments to Form N–PX at the same time as managers. This also allows funds additional time to implement applicable new Form N–PX requirements in the current proposal, including structured data reporting requirements, new quantification requirements, and new requirements to identify proxy voting matters and proxy voting categories. The proposed compliance date also is intended to provide a uniform mechanism of reporting votes at meetings that occur during the first reporting timeframe after the effective date of the proposed rule, because funds would be permitted to report say-on-pay votes for managers. As is currently the case, funds would be required to comply with current Form N–PX requirements until the end of the compliance period.

We request comment on the proposed compliance dates, and in particular, on the following issues:

89. Would the proposed compliance dates provide adequate time for managers that would be required to file Form N–PX for the first time and for funds that would be required to comply with the proposed amendments to Form N–PX? What, if any, implementation issues would managers and funds encounter in complying with the proposed rule and form amendments, and how should we address those issues (*e.g.,* permit delayed filing for the first full reporting period after the rule is enacted)?

90. Should we provide different compliance dates for managers or funds to comply with certain provisions of the proposal? For example, should the compliance date for structured data reporting differ from the compliance date for other amendments to Form N–PX?

J. Transition Rules for Managers

We are proposing, as we did in the 2010 proposal, transition rules that govern the timing of a manager's Form N–PX filing obligations whenever the manager enters and exits from the obligation to file Form 13F reports.[210] In particular, the proposal would not require a manager to file a Form N–PX report for the 12-month period ending June 30 of the calendar year in which the manager's initial filing on Form 13F is due.[211] Instead, the manager would be required to file a report on Form N–PX for the period ending June 30 for the calendar year following the manager's initial filing on Form 13F. For example, assume that a manager does not meet the $100 million threshold test on the last trading day of any month in 2023 but does meet the $100 million threshold test on the last trading day of at least one month in 2024. As a result, under the rules that currently apply to Form 13F, the manager would be required to file a Form 13F report no later than February 15, 2025, for the period ending December 31, 2024.[212] Additionally, under proposed rule 14Ad–1(b), the manager would be required to file a Form N–PX report no later than August 31, 2026, for the 12-month period from July 1, 2025, through June 30, 2026.[213] The following chart

[206] Proposed rule 14Ad–1(a); General Instruction A to proposed Form N–PX. For further discussion of the time of reporting provisions, see the discussion in Section II.F.

[207] *See, e.g.,* ICI Letter; ISS Letter; Glass Lewis Letter I.

[208] *See* Letter of Glass Lewis & Co. (June 3, 2011).

[209] *See* Form N–PX Adopting Release, *supra* footnote 7, at Section III.

[210] For commenters supporting the transition rule, *see* ABA Letter; Fidelity Letter.

[211] Proposed Rule 14Ad–1(b); General Instruction F to proposed Form N–PX. For this purpose, an ''initial filing'' on Form 13F means any quarterly filing on Form 13F if no filing on Form 13F was required for the immediately preceding calendared quarter. *Id.*

[212] Currently, under rule 13f–1, the obligation to file Form 13F arises when a manager exercises investment discretion over accounts holding at least $100 million in section 13(f) securities as of the ''last trading day of any month of any calendar year.'' However, the manager's obligation to file Form 13F commences with the report for December 31 of that year, which is required to be filed within 45 days after December 31. Rule 13f–1(a)(1); General Instruction 1 to Form 13F. *See* rule 0–3 under the Exchange Act [17 CFR 240.0–3].

[213] Proposed Rule 14Ad–1(b); General Instruction F to proposed Form N–PX.

illustrates the timing of the entrance of a manager to its obligation, under the proposed rule, to file Form N–PX.

INITIAL FORM N–PX FILING

Date filer exceeds reporting threshold	First Form 13F filing due	First proxy reporting period	First Form N–PX due
Mar. 31, 2023	Feb. 15, 2024	July 1, 2024–June 30, 2025	Aug. 31, 2025.
Dec. 31, 2023	Feb. 15, 2024	July 1, 2024–June 30, 2025	Aug. 31, 2025.
Jan. 31, 2024	Feb. 15, 2025	July 1, 2025–June 30, 2026	Aug. 31, 2026.

In addition we are proposing, as we did in the 2010 Proposing Release, to not require a manager to file a report on Form N–PX with respect to any shareholder vote at a meeting that occurs after September 30 of the calendar year in which the manager's final filing on Form 13F is due.[214] Instead, the manager would be required to file a report on Form N–PX for the period July 1 through September 30 of the calendar year in which the manager's final filing on Form 13F is due. This short-period Form N–PX filing would be due no later than March 1 of the immediately following calendar year.[215] A manager's obligation to file Form 13F reports always terminates with the September 30 report, and the transition rule we are proposing conforms the ending date for reporting say-on-pay votes with the ending date for Form 13F reporting.[216] The proposed February 28 due date would provide a two-month period for filing after December 31, when the manager's Form 13F filing status would be conclusively determined for the coming year.[217]

For example, assume that a manager ceases to meet the $100 million threshold in 2023. In other words, the manager meets the threshold on at least one of the last trading days of the months in 2022, but does not meet the threshold on any of the last trading days of the months in 2023. The manager's final report on Form 13F would be filed for the quarter ended September 30, 2023. The manager's final report on Form N–PX would include all say-on-pay votes cast during the period from July 1, 2023, through September 30, 2023, and would be required to be filed no later than March 1, 2024. The following chart illustrates the timing of the exit of a manager from its obligation to file Form N–PX.

FINAL FORM N–PX FILING

Date filer ceases to meet threshold	Final Form 13F filing due	Final Proxy reporting period	Final Form N–PX due
Mar. 30, 2023	Nov. 14, 2024	July 1, 2024–Sept. 30, 2024	Mar. 1, 2025.
Dec. 30, 2023	Nov. 14, 2024	July 1, 2024–Sept. 30, 2024	Mar. 1, 2025.
Feb. 1, 2024	Nov. 14, 2025	July 1, 2025–Sept. 30, 2025	Mar. 1, 2026.

We request comment on the proposed transition rules for managers required to file Form N–PX reports and, in particular, on the following:

91. The proposal would not require a manager to file a Form N–PX report for the 12-month period ending June 30 of the calendar year in which the manager's initial filing on Form 13F is due. Is this transition rule appropriate for managers entering the Form 13F and Form N–PX filing requirements, or is some other rule more appropriate? For example, should we require a manager to report say-on-pay votes for the period commencing January 1 (rather than July 1) of the calendar year in which the manager's initial filing on Form 13F is due? Instead should we require a manager to report say-on-pay votes for the period commencing on the first day of the month immediately following the date on which it meets the $100 million threshold?

92. Should we, as proposed, not require a manager to file a Form N–PX report with respect to any shareholder vote at a meeting that occurs after September 30 of the calendar year in which the manager's final filing on Form 13F is due? Should we instead require a manager to report say-on-pay votes cast at meetings that occur during some period after September 30 of the calendar year in which the manager's final filing on Form 13F is due? If so, what should that period be?

K. Technical and Conforming Amendments

We are proposing, as we did in the 2010 Proposing Release, two technical and conforming amendments. First, we are proposing to amend the heading of Subpart D of Part 249 of the Code of Federal Regulations to include new section 14A of the Exchange Act and to indicate that Exchange Act reports are filed by both issuers and other persons (*e.g.,* managers). We are also proposing amendments to reflect the fact that Form N–PX would be an Exchange Act form, as well as an Investment Company Act form.[218]

III. General Request for Comments

The Commission requests comment on the rule and form amendments proposed in this release, whether any changes to our rules or forms are necessary or appropriate to implement the objectives of our proposed rule and form amendments, and other matters

[214] Proposed Rule 14Ad–1(c); General Instruction F to proposed Form N–PX. For this purpose, a ''final filing'' on Form 13F means any quarterly filing on Form 13F if no filing on Form 13F is required for the immediately subsequent calendar quarter. *Id.*

[215] Proposed Rule 14Ad–1(c); General Instruction F to proposed Form N–PX.

[216] *See* rule 13f–1(a) (manager that meets $100 million threshold on last trading day of any month of any calendar year is required to file Form 13F for December 31 of that year and the first three calendar quarters of the subsequent calendar year).

[217] A manager is required to file a report on Form 13F in the coming year if it meets the $100 million threshold on the last trading day of any month of the current calendar year. As a result, in cases where the manager does not meet the threshold in January through November, its status will not be determined until December 31.

[218] Rule 30b1–4; 17 CFR 249.326 and 274.129.

that might affect the proposals contained in this release.

IV. Economic Analysis

A. Introduction

The Commission is proposing to amend Form N–PX to enhance the information funds currently report annually about their proxy votes on both executive compensation and other matters to make these reports more informative and easier to analyze. The proposed amendments to Form N–PX would standardize the order in which reporting persons disclose information, categorize votes, structure and tag the data reported, and make the description of proxy voting issues consistent across multiple filings. The proposed amendments would also provide additional information about the extent to which a fund votes or loans its shares. The Commission is also proposing rule and form amendments that would complete the implementation of section 951 of the Dodd-Frank Act by requiring a manager to report how it voted proxies relating to executive compensation matters. Specifically, the proposed rule and form amendments would require managers to report their say-on-pay votes annually on Form N–PX.

The Commission is sensitive to the economic effects, including the costs and benefits, imposed by the proposed rule and form amendments. At the outset, the Commission notes that, where practicable, we have attempted to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from the proposed rule and form amendments. In some cases, however, data needed to quantify these economic effects are not currently available to the Commission or otherwise publicly available. For example, there would be costs and benefits associated with managers disclosing information about their votes on executive compensation. Those costs and benefits may depend on existing levels of voluntary disclosure by managers and the extent to which they exercise voting power on behalf of funds because such votes are already reported on Form N–PX, and the proposal would not require managers to report them separately. Furthermore, costs associated with the proposal may depend on existing systems and levels of technology expertise within the funds and managers, which could differ substantially across reporting persons.[219]

B. Economic Baseline and Affected Parties

The economic baseline against which we measure the economic effects of this rule, including its potential effects on efficiency, competition, and capital formation, is the state of the world as it currently exists.

1. Funds' Reporting of Proxy Voting Records

Due to funds' significant voting power and the effects of funds' proxy voting practices on the actions of corporate issuers and the value of these issuers' securities, investors have an interest in how funds vote.[220] Since 2003, funds have used Form N–PX to report their proxy voting records annually for each matter relating to a portfolio security considered at any shareholder meeting held during the reporting period and with respect to which the fund was entitled to vote. In 2020, we estimate that there were approximately 2,087 funds with total assets of $29.86 trillion that were required to file reports on Form N–PX.[221]

On the current Form N–PX, among other things, a fund discloses whether it cast its votes on each proposal, how it voted (*e.g.,* for or against the proposal, or abstained), and whether any votes cast were for or against management recommendations. Although the form specifies the information that each fund must provide, it does not specify the format of the disclosure or how funds must present or organize the information. Reports on Form N–PX also are not currently filed in a machine-readable, or ''structured,'' data language. Investors can access a fund's Form N–PX filings online through the EDGAR website. Funds also must disclose that their proxy voting records are available to investors either upon request or on (or through) their websites, with most funds disclosing that this information is available upon request.

Current Form N–PX reports advanced transparency into fund voting. However, these reports can be difficult for investors to read and analyze. For example, under the current rules, Form N-PX is routinely filed as a large HTML or plain-text (ASCII) file. Many funds use automated systems to produce their Form N-PX records, which is often a simple output from a database maintained by the filer that covers meetings, proposals, and votes over a given period. A fund may own hundreds of securities, sorted by firm, each of which may have ten or more proposals each year. As a result, Form N–PX reports disclosing proxy voting records for all securities and proposals can be overwhelmingly long.[222] Investors also may have difficulty finding a particular fund's voting history within a single Form N–PX filing. Many fund complexes include information about several different funds in a single Form N–PX report, given the structure of many funds as series of a trust.

Funds also often use their own descriptions and abbreviations when describing a particular voting matter, which differ from the descriptions on an issuer's form of proxy. This can make it difficult for investors to identify a particular voting matter or category of similar voting matters, and to compare funds' voting records.

In addition to difficulties to collect and analyze the data provided on Form N–PX, certain gaps in the required current disclosure may provide an incomplete picture of a fund's proxy voting practices. For example, current Form N–PX does not require funds to provide information about the potential effects of a fund's securities lending activities on its proxy voting. A fund's securities lending activities can generate additional income for the fund and its shareholders. However, when a fund lends its portfolio securities, it transfers incidents of ownership, including proxy voting rights, for the duration of the loan. As a result, the fund loses its ability to vote the proxies of such securities, unless the securities are recalled, the loan is terminated and the securities are returned to the fund before the record date for the vote. Current Form N–PX does not provide information about this effect.

2. Managers' Reporting of Say-on-Pay Votes

Section 951 of the Dodd-Frank Act added new section 14A to the Exchange Act requiring issuers to provide shareholders with a vote on say-on-pay matters, and requires managers to report how they voted on those matters. Section 14A generally requires public companies to hold non-binding say-on-pay shareholder advisory votes to: (1) Approve the compensation of its named executive officers; (2) determine the frequency of such votes; and (3) approve ''golden parachute'' compensation in connection with a merger or acquisition.

[219] We do not anticipate any significant costs associated with the technical and conforming amendments discussed in *supra* Section II.K.

[220] *See, e.g.,* Stuart Gillan and Laura Starks, ''The Evolution of Shareholder Activism in the United States.'' *Journal of Applied Corporate Finance,* Volume 19 (2007).

[221] These estimates are based on staff review of Form N–CEN filings of management investment companies registered with the Commission as of December 2020.

[222] *See supra* footnote 17.

Section 14A(d) requires that every manager report at least annually how it voted on say-on-pay votes, unless such vote is otherwise required to be reported publicly. However, there are currently no rules or forms in place governing how managers are to comply with their reporting obligation under section 14A(d).[223] Some managers, such as public pension funds, do disclose their proxy voting records on their websites, although we understand that their disclosures generally do not contain quantitative information and presentation practices of website reporting vary across managers. Adopting say-on-pay vote reporting requirements for managers would complete implementation of section 951 of the Dodd-Frank Act.

As of March 31, 2021, 7,550 managers with investment discretion over approximately $39.79 trillion in section 13(f) securities.[224]

C. Costs and Benefits

1. Amendments to Funds' Reporting of Proxy Votes

a. Benefits

The fund-related proposed amendments to Form N–PX would benefit fund investors, other market participants, and other proxy voting data users,[225] by enhancing the information funds currently report about their proxy votes and making that information easier to collect and analyze. The proposed amendments include the following principal elements: (1) Requiring the disclosure of information about the number of shares that were voted (or instructed to be voted) and the number of shares that a fund loaned and did not recall before the record date for the vote; (2) requiring that funds describe a voting matter using the description in the issuer's form of proxy; (3) requiring funds to categorize voting matters by type; (4) requiring funds to report information in a standardized order and provide disclosure separately by series of shares; (5) requiring the reporting of information on Form N–PX in a custom XML language created specifically for Form N–PX; and (6) requiring funds to disclose that their proxy voting records are publicly available on (or through) their websites and available upon request, free of charge in both cases.

The amendments are designed to facilitate the benefits the Commission sought to provide with Form N–PX as articulated in the adopting release, namely: (1) To provide better information to investors who wish to determine to which fund managers they should allocate their capital, and whether their existing fund managers are adequately maximizing the value of their shares; (2) to deter fund voting decisions that are motivated by considerations of the interests of a fund's adviser rather than the interests of the fund's investors; and (3) to provide stronger incentives for fund managers to vote their proxies carefully.[226] One academic study suggests that, currently, investors may be less inclined to use information provided in Form N–PX because the costs of gathering and understanding more granular details about the fund's proxy voting exceed the benefits.[227]

We expect that the proposed amendments to the Form N–PX format and content would help investors and other data users more easily collect and analyze proxy voting information, resulting in lower costs of gathering and understanding this information. Specifically, the proposed amendments would require funds to use a consistent and standardized description, categorize voting matters, report in a custom XML data language, and make the form available on the fund's website and provide it to investors upon request, free of charge in both cases. We also expect these amendments could facilitate comparisons of voting patterns across a wide range of funds or within an individual fund over time. To the extent that investors choose among funds based on their proxy voting policies and records, in addition to other factors such as expenses, performance, and investment policies, we expect that investors would be able to select funds that suit their preferences more efficiently.

We expect additional benefits to investors and other proxy voting data users from accessing the new information on the amended Form N–PX regarding the number of shares voted and the number of shares loaned. We believe that this additional information could benefit investors and other data users by helping them understand the scope of a fund's participation in proxy voting activities, the fund's voting preferences, and the fund's ability to affect the outcome of shareholder votes and influence the governance of corporate issuers. As an example, the additional transparency the proposal would provide may help assess concerns regarding the extent to which loaned shares could be used to sway proxy votes towards outcomes that enhance borrowers' private benefits instead of outcomes considered beneficial for funds' shareholders.[228]

In light of the increased transparency the amendments would provide on fund voting, the proposal may also provide an incentive for fund managers to devote additional time and resources to their participation in voting proxies, which could lead to an improvement in the performance of corporate issuers and enhance shareholder wealth.[229] Academic research provides some evidence that actively voting funds help sway shareholder votes toward value-maximizing outcomes when voting on the matters such as CEO turnover, executive compensation, anti-takeover provisions, and mergers.[230] We note that

[223] Although managers are not currently required to file reports on Form N–PX, there is a subset of managers that advise funds, and each of these funds is required to report its own proxy voting record, including say-on-pay votes, annually on Form N–PX.

[224] These estimates are based on staff review of Form 13F filings covering the first quarter of 2021. *See* also *supra* footnote 24 and *infra* footnote 265.

[225] Other proxy voting data users include, for example, regulators such as the Commission, proxy voting advisers, equity analysts, corporate issuers, and third-party data providers.

[226] Form N–PX Adopting Release, *supra* footnote 7. The discussion of the interests of funds' investors is not intended to describe the interests of any particular investor or investors, but instead refers to the fund's investors, considered as a whole.

[227] *See* Jonathon Zytnick, ''Do Mutual Funds Represent Individual Investors?'' *NYU Law and Economics Research Paper* No. 21–04 (March 7, 2021) at page 4, (finding ''evidence consistent with limited attention, in which the costs [to shareholders] of acquiring more granular detail about funds, as compared to readily available information, exceed the benefits''), available at *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3803690.*

[228] It may be possible that investors who borrow securities primarily to obtain votes could sway proxy votes towards outcomes that enhance their private benefits instead of outcomes considered beneficial for funds' shareholders. Hu and Black (2008) provide examples of situations when the use of borrowed shares may have swayed the outcome of a shareholder vote. *See* Henry Hu and Bernard Black, ''Equity and Debt Decoupling and Empty Voting: II Importance and Extensions.'' *University of Pennsylvania Law Review,* Volume 156 (2008). To date, we are not aware of evidence on whether such voting with borrowed shares occurs on a regular basis or whether it has a significant effect on proxy voting outcomes.

[229] *See* Peter Iliev and Michelle Lowry, ''Are Mutual Funds Active Voters?'' *Review of Financial Studies,* Volume 28 Issue 2 (2015); Vincente Cunat, Mireia Gine, and Maria Guadalupe, ''The Vote is Cast: The Effect of Corporate Governance On Shareholder Value.'' *Journal of Finance,* Volume 67 Issue 5 (2012). (finding that passing a governance provision is associated with an increase in shareholder value, and more so when proposals are sponsored by institutional investors).

[230] *See, e.g.,* Angela Morgan, Annette Poulsen, Jack Wolf, and Tina Yang, ''Mutual Funds as Monitors: Evidence from Mutual Fund Voting.'' *Journal of Corporate Finance,* Volume 17 (2011). (finding that, ''in general, mutual funds vote more affirmatively for potentially wealth-increasing proposals and funds' voting approval rates for these beneficial resolutions are significantly higher than those of other investors''). S*ee* also Jean Helwege,

Continued

these potential corporate governance improvements resulting from more active participation in proxy voting by funds could have a positive externality effect as the benefits would be accessible to all equity holders, and not limited to fund investors.

In addition, the proposed amendments to the format and content of Form N–PX may also help deter fund votes motivated by conflicts of interest that compromise the fund's voting on proposals considered beneficial for the fund's investors.[231] For example, some academic research finds that mutual funds' proxy voting may be affected by their business ties with the portfolio firms where the fund's adviser also manages the firm's pension plan, as well as through personal connections between fund managers and corporate executives.[232] More generally, fund managers' proxy voting decisions may be driven by their economic interest in attracting more business for the fund.[233] A fund's proxy voting also may be affected by the fund manager's personal preferences that do not align with the best interests of the fund's investors.[234]

To the extent that the increased transparency about fund's proxy votes, resulting from the proposed amendments, would provide an incentive for fund managers to focus more on shareholder value maximization, this could lead to an improvement in the performance of corporate issuers and enhance shareholder value. We note that assets held in funds account for approximately 30% of the market capitalization of all publicly traded U.S. corporations as of year-end 2020, and therefore funds have the ability to exercise a considerable amount of influence in proxy votes which could affect the value of these corporations.[235]

b. Costs

The proposed amendments to Form N–PX would lead to some additional costs for funds. Any portion of these costs that is not borne by a fund's adviser or other sponsor would ultimately be borne by the fund's shareholders. Direct costs for funds would consist of both internal costs (for compliance attorneys and other non-legal staff of a fund, such as computer programmers, to prepare and review the required disclosure) and external costs (such as any costs associated with third-party service providers to collect and report the information disclosed in Form N–PX).[236]

We anticipate that any additional direct costs associated with the proposed amendments aimed at reducing the costs of accessing and gathering proxy voting information for investors and other users of the data—the requirements to use a custom XML language and to publish proxy voting records on the fund's website—would be relatively low given that funds already accommodate similar requirements in their other reporting and can utilize their existing capabilities for preparing and publishing an updated Form N–PX.

Indirect costs for funds would include the costs associated with additional actions that funds may decide to undertake in light of the increased transparency of their voting records and practices. To the extent that the proposed amendments provide an incentive for fund managers to devote additional time and resources to voting proxies, this may result in additional expenses for funds, some of which may be passed on to funds' investors. Also, as a result of the increased scrutiny by investors, a fund may be incentivized to vote against an issuer firm's management with whom the fund has business ties. This could jeopardize the fund's relationship with the client firm and result in lost revenue if the firm decides to relocate their employee benefit accounts elsewhere.

The proposed requirement for funds to disclose the number of shares a fund voted and the number of shares the fund loaned and did not recall for voting could reduce the fund's proceeds from securities lending, which would reduce returns to the fund's investors.[237] Specifically, in light of the increased transparency the amendments would provide on funds' securities lending activities, some funds may decide to recall their loaned securities to be able to vote the proxies of these securities. A change in the fund's lending activity could also affect the fund's adviser and its affiliates. For example, some funds use securities lending agents that are affiliated with the fund's adviser and that are compensated in their role as agent with a share of the proceeds generated by the lending program.

However, we expect the scope of the possible impact of the proposed amendments on funds' securities

---

Vincent Intintoli, and Andrew Zhang, ''Voting with Their Feet or Activism? Institutional Investors' Impact on CEO Turnover.'' *Journal of Corporate Finance,* Volume 18 Issue 1 (2012) for a review of the literature.

[231] *See, e.g.,* Gerald Davis and Han Kim, ''Business Ties and Proxy Voting by Mutual Funds.'' *Journal of Financial Economics,* Volume 85 Issue 2 (2007) (''To the extent that good corporate governance leads to higher valuations, fund managers have incentives to use their voting power to demand good corporate governance and accept (reject) proposals that may benefit (harm) investors. However, such fiduciary responsibilities may be compromised if mutual fund parents manage employee benefit plans (such as 401(k) plans) for their portfolio firms at the behest of management.''). According to the article, on average, earnings from 401(k)-related business equal 14% of the revenues that mutual fund families earn from their equity funds, and such income can represent as much as 25% of fund family revenues.

[232] *See, e.g.,* Ashraf, Jayaraman, and Ryan (2012) find that ''fund families support management when they have pension ties to the firm'' and Cvijanovic, Dasgupta, and Zachariadis (2016) find that ''business ties significantly influence pro-management voting at the level of individual pairs of fund families and firms.'' Butler and Gurun (2012) observe that ''mutual funds whose managers are in the same educational network as the firm's CEO are more likely to vote against shareholder-initiated proposals to limit executive compensation than out-of-network funds are.'' *See* Rasha Ashraf, Narayanan Jayaraman, and Harley Ryan, ''Do Pension-Related Business Ties Influence Mutual Fund Proxy Voting? Evidence from Shareholder Proposals on Executive Compensation.'' *Journal of Financial Quantitative Analysis,* Volume 47 Issue 03 (2012); Dragana Cvijanovic, Amil Dasgupta, and Konstantinos Zachariadis, ''Ties That Bind: How Business Connections Affect Mutual Fund Activism'', *Journal of Finance,* Volume 71 Issue 6 (2016); Gerald Davis and Han Kim, ''Business Ties and Proxy Voting by Mutual Funds.'' *Journal of Financial Economics,* Volume 85 Issue 2 (2007); and Alexander Butler and Umit Gurun, ''Educational Networks, Mutual Fund Voting Patterns, and CEO Compensation.'' *Review of Financial Studies,* Volume 25 Issue 8 (2012).

[233] *See, e.g.,* Lucian Bebchuk, Alma Cohen, and Scott Hirst, ''The Agency Problems of Institutional Investors.'' *Journal of Economic Perspectives,* Volume 31 Number 3 (2017) (discussing that fund managers' proxy voting decisions may be driven by their economic interest in attracting more business for the fund rather than engaging in generating governance gains at portfolio companies.) The Commission has brought at least one enforcement action against a registered investment adviser for having proxy voting policies that did not address material potential conflicts when the adviser selected voting guidelines explicitly favored by certain clients to vote all its clients' securities, in order to improve the adviser's ranking in a third-party proxy voting survey. *See, In the Matter of INTECH Investment Management LLC,* Investment Advisers Act Release No. 2872 (May 7, 2009) (settled order).

[234] *See, e.g.,* Paul Mahoney and Julia Mahoney, ''The New Separation of Ownership and Control: Institutional Investors and ESG.'' *Columbia Business Law Review,* Volume 2 Number 2 (2021).

[235] ICI 2020 Fact Book, *supra* footnote 5, Figure 2.7.

[236] Based on the results of the PRA analysis provided in Table 2, it is estimated that the annual direct costs attributable to information collection requirements in the proposed amendments for funds that hold equity securities would be approximately $6,577 per fund, which consists of $6,077 in internal costs and $500 in external costs. For funds not holding equity securities, the direct costs are not expected to change. For funds of funds, the direct costs would comprise internal and external costs and are estimated at $414 per fund. These annual direct costs include both ongoing, and initial costs, with the latter being amortized over three years.

[237] Based on Form N–CEN filings received through May 2021, 67% of funds were authorized to engage and 40% participated in lending their securities. Funds that lent their securities reported aggregate net income from securities lending in the last year of $2.663 billion, representing an average of 0.036% of average total net assets in the last year.

lending practices and income would be limited for the following reasons:

• First, according to a survey of institutional investors referenced in one academic study, 37.9% of the respondents stated that a formal policy on securities lending is part of their proxy voting policy, with some institutional investors requiring a total recall of shares ahead of proxy voting, while others weigh the lost income from securities lending against the benefits of voting on a specific proposal.[238] For funds with such existing securities lending policies, we expect no changes to their lending practices as a result of the proposed amendments.

• Second, even if some funds decide to recall loaned securities ahead of proxy voting, we anticipate that these funds would lend their shares again immediately after the vote record date, thus resuming the income stream obtained through security lending. This is consistent with findings in academic research showing that the supply of shares available to lend starts to decrease about 20 days before the vote record date and it increases to its pre-event levels immediately after the vote record date.[239] Therefore, we expect that the lost income to the funds from recalling their loaned shares to participate in proxy voting would be limited to the income from securities lending that could have been generated over the recall period.

• Third, we expect that funds would factor income from securities lending, among other considerations, into their lending decision and recall loaned securities when they expect the value of their voting rights would exceed lost income from securities lending. This is consistent with findings in academic research showing that the recall of shares ahead of the voting record date is sensitive to the borrowing fee and that recall is lower if the fee paid by borrowers is higher.[240] Therefore, if, under the proposed amendments, some funds decided to recall their loaned shares to be able to participate in proxy voting, we anticipate that the fund managers will have determined that the benefits to these funds associated with their decision would outweigh the potential loss of lending income.

Since stock loans can be used for many different purposes, including short selling and arbitrage and hedge trading strategies, changes in funds' securities lending practices could have an impact on these activities, which may impose additional costs on market participants. However, as discussed earlier, we would expect the securities lending supply to be largely unaffected by the proposed amendments and, therefore, we would expect other market activities that rely on securities lending to be largely unaffected too. If, as a result of increased transparency under the proposed amendments, some funds decide to recall their loaned shares, we expect the impact of this change on other related market activities such as short selling and arbitrage trading to be limited for the following reasons:

• As discussed earlier, we would expect the recall to be short-term and funds to return to their normal securities lending practices immediately after the vote record date. Therefore, we anticipate that other market activities that rely on securities lending would also return to normal levels after the vote record date.

• Additionally, we expect that the market for securities lending has sufficient depth to withstand these short-term recalls by some funds ahead the voting record date without experiencing significant changes. One academic study shows that the equity lending market has a slack in supply with approximately a quarter of a corporate issuer's market capitalization typically available for lending and less than one-fifth of these shares being on loan.[241] Therefore, we expect that if some funds decided to recall their securities to participate in proxy voting, other lenders would step in to supply shares for loan on similar terms. This is consistent with findings in academic research showing that changes in borrowing fees during the recall period tend to be economically small or insignificant.[242]

• The impact on borrowing fees could be more pronounced for hard-to-borrow stocks such as stocks with low lendable supply and/or high borrowing demand, also known as ''special.'' [243] If funds recalled a significant number of shares of such stocks ahead of the vote record date, it may potentially have an impact on the stock price.[244] However, ''special'' stocks are typically associated with higher borrowing fees [245] and, therefore, funds may be more reluctant to recall these shares from loans if the income from lending them exceeds the benefits of participating in proxy voting. For example, one academic study shows that lendable supply of ''special'' stocks changes by less than that of the non-special stocks prior to the vote record date.[246] Therefore, we expect that the proposed amendments are unlikely to have an impact on securities lending and other related market activities for these stocks.

2. Amendments To Require Manager Reporting of Say-on-Pay Votes

a. Benefits

Under the proposal, managers would publicly disclose annually on Form N–PX information about their proxy votes relating to say-on-pay matters. The information would include a description of say-on-pay matters that is consistent with the description on an issuer's form of proxy, their standardized classification, the number of shares voted and number of shares loaned and not recalled, and how the shares were voted by the manager.

We believe the proposed rule may benefit the securities markets by providing access to information about how managers vote on issuers' say-on-pay recommendations. As of March 31, 2021, managers that file reports on Form 13F exercised investment discretion over approximately $39.79 trillion in section 13(f) equity securities. In many cases, fund managers also exercise voting power for proxies relating to these equity securities. This voting power gives fund managers significant ability to affect the outcomes of shareholder votes and influence the governance of corporations.

Recent academic literature shows that the requirement of holding say-on-pay votes could have an impact on executive compensation and other corporate governance practices for corporate issuers.[247] The proposed rule would

[238] *See, e.g.,* Aggarwal et al. (2015) at page 2314, *supra* footnote 20.

[239] *See id* at page 2316.

[240] *See id* at page 2328.

[241] *See id* at page 2315.

[242] *See id* at page 2327. *See* also Susan Christoffersen, Cristopher Geczy, David Musto, and Adam Reed, ''Vote Trading and Information Aggregation.'' *Journal of Finance,* Volume 62 Issue 6 (2007) at page 2912.

[243] The Aggarwal et al. (2015) study estimated that such special stocks represented about 9% of their considered equity lending sample, which covers more than 85% of the securities lending market. The study finds that ''special'' stocks have a higher average annualized borrowing fee of 429 basis points, compared with a fee of 9.3 basis points for the non-special stocks.

[244] *See, e.g.* Jesse Blocher, Adam Reed, and Edward Van Wesep, ''Connecting Two Markets: An Equilibrium Framework for Shorts, Longs, and Stock Loans.'' *Journal of Financial Economics,* Volume 108 Issue 2 (2013) (finding that when share loan supply is ''reduced around dividend record dates, prices of hard-to-borrow stocks increase 1.1% while prices of easy-to-borrow stocks are unaffected''). While the study looks at the effect around the dividend record date, it is possible that similar results could hold around vote record dates.

[245] *Supra* footnote 243.

[246] *See* Aggarwal et al. (2015) at page 2323.

[247] *See* Peter Iliev and Svetla Vitanova, ''The Effect of the Say-on-Pay Vote in the United States.'' *Management Science,* Volume 65 (2019); James Cotter, Alan Palmiter and Randall Thomas, ''The First Year of Say-on-Pay under Dodd-Frank: An

Continued

enable investors to observe how managers exercised their proxy votes regarding such matters. To the extent the information contained in say-on-pay votes is understood and valued by investors,[248] investors can benefit from using this additional information in selecting managers, and in determining whether managers are adequately maximizing the value of their assets.

This information may also help deter votes motivated by conflicts of interest and promote accountability of executives who often are in a position to shape their own pay arrangements. To the extent that executives are sensitive to approval from their institutional shareholder base, the adoption of the proposed rule should help align the incentives of executives and investors, which would result in better corporate governance practices at corporate issuers.

Public companies currently subject to the Dodd-Frank Act's say-on-pay vote requirements may also benefit from the transparency provided by this rule. Knowing how managers have voted on executive compensation matters in the past, and knowing how they voted on say-on-pay matters at similar firms or other firms in the same industry, could be useful for the companies as they consider their own executive compensation practices and policies.

b. Costs

The proposed rule would lead to some additional direct and indirect costs for managers associated with disclosing required information about their say-on-pay votes annually on Form N–PX. If a manager exercises voting power for a client's securities, the costs to report the vote may be passed on to the client. Some of these costs are a direct result of section 14A(d)'s statutory mandate for managers to report annually how they have voted.[249]

Direct costs to each manager would include both internal costs (for compliance attorneys and other non-legal staff, such as computer programmers, to prepare and review the required disclosure) and external costs (such as any costs associated with third-party service providers to collect and report the information disclosed in Form N–PX).[250] We anticipate that costs for managers associated with obtaining the information required to be reported by the proposed rule would be limited because we believe that many managers are already tracking some of these data.

Indirect costs to managers associated with the proposed amendments would be similar to the indirect costs to funds discussed in the prior section. More specifically, to the extent that the proposed amendments may provide an incentive for managers to devote additional time and resources to proxy voting, this may result in additional expenses for managers, some of which may be passed on to their clients. Also, an increase in scrutiny by investors as a result of increased transparency under the proposed amendments may incentivize managers to vote against the management of an issuer with which the manager may have a business relationship, which could weaken the manager's relationship with the issuer firm and result in lost revenue.

Further, the proposed disclosure requirements for managers could create incentives for them to recall their loaned securities to cast proxy votes on say-on-pay matters for these securities. This could reduce these managers' and their clients' revenues and may have a short-term impact on the securities lending and underlying stock markets.[251] However, similar to the impact on funds discussed in the prior section, we expect that the scope of the possible impact of the proposed amendments on managers' securities lending practices and revenues would be limited.

We believe that the costs arising from the proposal to use Form N–PX to implement section 14A's say-on-pay vote reporting requirements for managers would be mitigated by the experience that managers that are advisers to funds already have with filing Form N–PX reports on behalf of funds. In addition, the proposed move to a custom XML data language for Form N–PX is not expected to impose significant costs on managers subject to say-on-pay voting requirements, as managers have experience filing other EDGAR forms that use similar custom XML data languages, such as Form 13F.

The costs associated with the proposed rule may vary depending on existing levels of voluntary disclosure, organizational structure, and investment objectives of each manager. For example, the cost of compliance with the proposed rule is likely to be lower for managers that exercise voting power on behalf of funds because such votes are already reported on Form N–PX, and the proposal would not require managers to separately report say-on-pay votes cast on behalf of funds in compliance with the joint reporting provisions. Also, the costs are likely to be lower for managers who already voluntarily track and disclose some of the data the proposed rule would require.

D. Effects on Efficiency, Competition, and Capital Formation

In this section we consider whether the proposed rule and form amendments would promote efficiency, competition, and capital formation.

1. Amendments to Funds' Reporting of Proxy Votes

The proposed amendments to Form N–PX would provide investors with greater access to information regarding the proxy voting decisions of the funds they invest in. This could help investors make better informed investment decisions when they want to take into account funds' voting records, which could promote more efficient allocation of capital by investors to funds.

The amendments would also make it easier for investors and other proxy voting data users to compare and evaluate proxy voting records across a wide variety of funds. This may improve competition among funds, as funds may seek to differentiate themselves based on their voting records. This could further promote a more efficient allocation of capital by investors among competing funds.

Further, as proxy voting information becomes easier to gather and analyze, data-collecting service providers could face an increased competitive pressure to improve and develop new tools and methodologies and/or reduce their service fees.

Finally, we do not anticipate any significant effects of the proposed amendments on capital formation.

Empirical Analysis and Look Forward.'' *George Washington Law Review,* Volume 81 Issue 3 (2013).

[248] *See, e.g.,* David Larcker, Ronald Schneider, Brian Tayan, and Aaron Boyd, ''2015 Investor Survey Deconstructing Proxy Statements—What Matters to Investors.'' *Stanford University, RR Donnelley, and Equilar Report* (February 2015) (finding that 58 percent of shareholders believes that say-on-pay is effective in influencing or modifying pay practices).

[249] In the 2010 Proposing Release, no commenter provided specific empirical data quantifying costs that may be incurred by a reporting person in complying with those proposed amendments.

[250] Based on the results of the PRA analysis provided in Table 2, it is estimated that the annual direct costs attributable to information collection requirements in the proposed amendments for managers would be approximately $5,925 per manager, consisting of $4,925 in internal costs and $1,000 in external costs. These annual direct costs include ongoing as well as initial costs, with the latter being amortized over three years.

[251] *See supra* footnotes 238–240 and accompanying text for the discussion related to the effect on securities lending for funds. *See supra* footnotes 241–246 and accompanying text for a discussion of the potential effects on underlying markets, which would also apply to changes in managers' securities lending activities.

2. Amendments To Require Manager Reporting of Say-on-Pay Votes

Because the proposed rule applies equally to all managers that are required to file reports under section 13(f) of the Exchange Act, we do not anticipate that any competitive disadvantages would be created. To the contrary, we anticipate that the proposed rule may encourage competition by raising awareness about manager voting on say-on-pay matters and may facilitate differentiation among managers.

The proposed amendments to require manager reporting of say-on-pay votes could promote more efficient allocation of capital to managers. The proposed amendments could enable investors to obtain managers' proxy voting information which could help investors allocate assets to managers who cast proxy votes that are more consistent with investors' preference for voting on executive compensation matters.

Finally, we do not anticipate any significant effects of the amendments on capital formation.

E. Reasonable Alternatives

1. Scope of Managers' Say-on-Pay Reporting Obligations

We considered as an alternative whether to more closely align managers' reporting requirements on Form N–PX with their reporting requirements on Form 13F by adding a *de minimis* exception. Filers on Form 13F are permitted to exclude positions when the positions have a dollar value of less than $200,000 and consist of fewer than 10,000 shares. Several commenters on the 2010 proposal suggested that we include a *de minimis* exception, with one suggesting that not doing so would reduce the value of the exception to Form 13F reporting and a different commenter suggesting that this could permit their positions to be front-run.[252]

The benefits of say-on-pay vote reporting to managers' clients and to other investors, as discussed above, do not appear to be limited to votes of a certain size. We also believe that the cost savings of a *de minimis* exception would be minimal. To the extent that a filing could reveal information about a filer's trading strategy that would permit it to be front-run, we believe that the instructions for requesting confidential treatment address this concern.

We also considered as an alternative whether to reduce the burden on managers who have a stated practice of not voting shares, for instance by reducing their reporting obligations or not requiring them to make a filing at all. While this approach would reduce costs for relevant managers, it may limit the ability of investors to understand fully how managers exercise their voting power, including by determining not to vote shares.

Another alternative we considered was allowing managers to not file on Form N–PX when they did not exercise voting power over securities that held say-on-pay votes during the reporting period. We do not believe this alternative would substantially reduce costs for relevant managers relative to the proposal because the proposal only requires these managers to state in a Form N–PX filing that they have no votes to report. Moreover, we believe that requiring all managers to make a filing would permit both Commission staff and investors to identify more easily managers who may have missed a filing obligation. Not requiring all managers to make a filing could reduce the usefulness of Form N–PX filings because investors would not necessarily understand whether a manager did not make a filing because it did not exercise voting power or because it simply neglected to file the form.

2. Amendments to Proxy Voting Information Reported on Form N–PX

We are proposing changes to Form N–PX that would require disclosure of information about the number of shares that were voted (or, if not known, the number of shares that were instructed to be cast), as well as disclosure of the number of shares the reporting person loaned and did not recall.

We considered proposing a requirement to disclose the number of shares voted (or instructed to be cast) and not proposing the requirement to disclose the number of shares the reporting person loaned and did not recall for these votes. This approach would provide information to understand split votes, but may have limited utility otherwise. Specifically, this approach would not provide information to help investors understand the full extent to which a reporting person is voting shares. While the alternative approach would reduce reporting burdens for some funds and managers, it would also have fewer benefits for investors such as transparency into how a reporting person's securities lending affects its proxy voting.[253]

3. Amendments to the Time of Reporting on Form N–PX or Placement of Funds' Voting Records

As an alternative to maintaining the current timeline for filing reports on Form N–PX, we considered requiring funds or managers to report relevant proxy votes more frequently, such as on a semiannual, quarterly, or monthly basis, or shortly after a given vote is held. We also considered maintaining the current annual reporting requirement, but requiring reporting persons to file their reports more quickly (*e.g.,* by the end of July, rather than by the end of August). In general, these alternatives would provide investors and other data users with more timely information about how a fund or manager votes.

A semiannual reporting requirement could be incorporated into funds' current reporting of annual and semiannual shareholder reports on Form N–CSR. The Commission proposed a similar approach to requiring disclosure of funds' proxy voting records in 2002.[254] At that time, some commenters raised concern about the burdens of such an approach for fund complexes with staggered fiscal year ends, as these fund complexes could be required to file reports on Form N–CSR with complete proxy voting records as many as twelve times per year.[255] An approach to requiring more frequent reporting of proxy voting records that is tied to funds' fiscal year ends would likely create administrative complexity for many fund complexes and would increase costs associated with filing proxy voting information more frequently.

As for a semiannual or quarterly reporting requirement on Form N–PX that is based on the calendar year, either of these approaches may not significantly enhance the timeliness of voting information in many cases because most corporate issuers hold proxy votes within the few months leading up to June 30, which is the end of the current Form N–PX annual reporting period. As a result, if we required semiannual or quarterly reporting of Form N–PX, most votes would likely be in the reporting person's report for the first half of the year (for semiannual reports) or for the second calendar quarter (for quarterly reports). A semiannual or quarterly reporting requirement would also

[252] Intel Letter (suggesting that this would reduce the value of the Form 13F exception); Seward Letter (front-running). *See also* ABA Letter (general support for *de minimis* exception); Barnard Letter (same).

[253] *See supra* Section II.C.3.b. for detailed discussion.

[254] *See* Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies, Investment Company Act File No. 25739 (Sept. 20, 2002).

[255] *See* Form N–PX Adopting Release, *supra* footnote 7, at paragraph accompanying n.39.

increase reporting costs, as reporting persons would be required to file either two or four Form N–PX reports per year rather than one report per year.

A requirement to report monthly or shortly after each proxy vote is held would provide voting information much more quickly to investors and this could provide certain benefits. For example, timelier public reporting of funds' proxy votes has the potential to facilitate fund shareholders' ability to monitor their funds' involvement in the governance activities of portfolio companies, including within a single proxy season.[256] We currently are not proposing these alternative approaches, however, because we do not have evidence that most fund shareholders generally are interested in analyzing votes on a monthly basis or shortly after they are held rather than focusing on a reporting person's voting record more holistically. Also, these alternative approaches would require reporting persons to disclose a position in a security before disclosure of the position is required on Form 13F or Form N–PORT, increasing the potential for disclosure of sensitive information that competitors could use to front-run or reverse engineer investing strategies. In addition, we would expect both alternative approaches to increase costs associated with reporting proxy voting information more frequently.

Shortening the timeline for filing annual Form N–PX reports, which is currently about two months after the end of the reporting period, would marginally improve the timeliness of the reported information. However, shortening the filing timeline by more than a few weeks would increase the possibility of a reporting person being required to disclose a vote on a security before otherwise being required to disclose a position in that security on Form 13F or Form N–PORT. As a result, this approach could to some extent increase the potential for disclosure of sensitive information that competitors could use to front-run or reverse engineer investing strategies.

F. Request for Comment

We request comment on all aspects of our economic analysis, including the potential costs and benefits of the proposed amendments and alternatives thereto, and whether the amendments, if we were to adopt them, would promote efficiency, competition, and capital formation. In addition, we request comments on our selection of data sources, empirical methodology, and the assumptions we have made throughout the analysis. Commenters are requested to provide empirical data, estimation methodologies, and other factual support for their views, in particular, on costs and benefits estimates. In addition, we request comment on:

93. To what extent would the proposed amendments affect funds' or managers' securities lending and have an impact on short-selling and arbitrage trading activities? What additional materials and data should we consider for estimating these effects?

94. Are we correct to assume that the costs associated with the use of a custom XML language for preparing Form N–PX would be minimal for funds and managers? What would the impact of these costs be for small reporting persons?

95. We considered requiring funds to report proxy votes semiannually, quarterly, or shortly after the vote is held. What are the costs and benefits of requiring funds to report proxy votes semiannually, quarterly, monthly, or shortly after the vote is held? Are we correct to assume that investors and other users of Form N–PX data generally are interested in analyzing a reporting person's voting record more holistically rather than focusing on individual votes held during time horizons shorter than one year and therefore likely would derive little additional benefit from this increased reporting frequency?

V. Paperwork Reduction Act

Certain provisions of the proposed rules and form amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[257] We are submitting the proposed collections of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[258] The title for the collection of information is: ''Form N–PX—Annual Report of Proxy Voting Record'' (OMB Control No. 3235–0582).[259] 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.

Section 14A(d) of the Exchange Act requires that every manager subject to section 13(f) of the Exchange Act report at least annually how it voted on say-on-pay votes, unless such vote is otherwise required to be reported publicly by rule or regulation of the Commission. To implement section 14A(d), we are proposing new rule 14Ad–1 under the Exchange Act, which would require managers to file their record of say-on-pay votes with the Commission annually on Form N–PX.[260] We are also proposing to amend Form N–PX, which was adopted pursuant to section 30 of the Investment Company Act and is currently used by funds to file their complete proxy voting records with the Commission, to accommodate the new filings by managers and to enhance the information funds provide on their proxy votes.[261] In addition, we propose to amend Forms N–1A, N–2, and N–3 to disclose that their proxy voting records are available on (or through) their websites. Although the website availability requirement would be located in the relevant registration form, the Commission is reflecting the burden for these requirements in the burden estimate for Form N–PX—Annual Report of Proxy Voting Record, and not in the burden for Forms N–1A, N–2, or N–3.

Form N–PX, including the amendments, contains collection of information requirements. Compliance with the disclosure requirements of the form is mandatory. Responses to the disclosure requirements will not be kept confidential unless granted confidential treatment.[262]

The Commission estimates that there are approximately 2,087 funds registered with the Commission.[263] These registrants represent approximately 11,619 fund portfolios that are required to file Form N–PX reports. The 11,619 portfolios are composed of approximately 7,064 portfolios that do or may hold equity securities, 3,188 portfolios holding no equity securities, and 1,367 portfolios holding fund securities (*i.e.,* fund of funds).[264] In addition, the Commission estimates that there are approximately

[256] *See supra* footnote 191 and accompanying text.

[257] 44 U.S.C. 3501 *et seq.*

[258] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[259] The title for the collection of information relating to Form N–PX would be renamed from ''Form N–PX—Annual Report of Proxy Voting Record of Registered Management Investment Companies.''

[260] For purposes of the PRA analysis, the burden associated with the requirements of proposed rule 14Ad–1 is included in the collection of information requirements of Form N–PX.

[261] 15 U.S.C. 80a–29.

[262] *See* Section II.F *supra.*

[263] The estimate of 2,087 funds is based on staff review of Form N–CEN filings of management investment companies registered with the Commission as of December 2020.

[264] The Commission staff estimates that there are approximately 6,301 portfolios that invest primarily in equity securities, 763 ''hybrid'' portfolios that may hold some equity securities (6,301 + 763 = 7,064), 2,848 bond portfolios that hold no equity securities and 340 money market fund portfolios (2,848 + 340 = 3,188), and 1,367 funds of funds, for a total of 11,619 portfolios required to file Form N–PX reports. *See* ICI 2021 Fact Book, *supra* footnote 5, at 214–221.

7,550 managers required to file Form 13F reports with the Commission, which would be required to file Form N–PX reports under the proposal.[265]

The tables below summarize the currently approved Form N–PX burden estimates and our initial and ongoing annual burden estimates associated with the proposed amendments, including proposed requirements to identify proxy matters using the language of the issuer's form of proxy, categorize proxy votes, provide quantitative information related to shares voted (or instructed to be voted) and shares the fund loaned and did not recall, follow specific formatting and presentation instructions, file Form N–PX using a custom XML language, and make proxy voting records available on (or through) fund websites.[266]

BILLING CODE 8011–01–P

TABLE 1: CURRENTLY APPROVED FORM N-PX PRA ESTIMATES[1]

	Internal burden		Wage rate	Cost of Internal Burden	Annual External Cost Burden
Funds Holding Equity Securities					
Estimated annual burden of current Form N-PX per response	7.2	×	$368	$2,650	$1,000
Estimated number of annual responses[2]	× 6,392			× 6,392	× 6,392
Total annual burden	46,022			$16,936,243	$6,392,000
Funds Not Holding Equity Securities					
Estimated annual burden of current Form N-PX per response	0.17	×	$368	$63	
Estimated number of annual responses[2]	× 2,857			× 2,857	
Total annual burden	486			$178,734	
Funds of Funds					
Estimated annual burden of current Form N-PX per response	1	×	$368	$368	$100
Estimated number of annual responses[2]	× 1,476			× 1,476	× 1,476
Total annual burden	1,476			$543,168	$147,600
Total Burden					
Total annual burden	47,984			$17,658,112	$6,539,600

Certain products and sums do not tie due to rounding.

1. These estimates were previously submitted to OMB in connection with a revision of the then-currently approved collection in 2020.
2. These estimates are conducted for each fund portfolio, not for each filing. In certain cases, a single Form N-PX filing will report the proxy voting records of multiple fund portfolios. In those circumstances, the filer would bear the burden associated with each fund portfolio it reported.

[265] The estimate of 7,550 filers is based on the number of managers who made Form 13F–HR or Form 13F–NT filings covering the first quarter of 2021. Form 13F–NT filers report their holdings on the Form 13F–HR of a different filer; while certain of those filers may be eligible to use the joint reporting provisions of Form N–PX, we have assumed for the purpose of this analysis that they will file their own reports on Form N–PX.

[266] The estimates differ from the estimates in the 2010 Proposing Release for a variety of reasons, including that our current proposal differs from the 2010 proposal in several ways and the burden estimates of current Form N–PX have changed to some extent since 2010. We are further updating our PRA estimates based on our current estimates of the number of funds required to file Form N–PX.

TABLE 2: FORM N-PX PRA ESTIMATES

	Internal initial burden hours	Internal annual burden hours[1]		Wage rate[2]	Internal time costs	Annual external cost burden
Funds Holding Equity Securities						
Estimated annual burden of current Form N-PX per response		7.2	×	$373[3]	$2,686	$1,000
Estimated initial burden to accommodate new reporting requirements	24	8	×	$325[4]	$2,600	
Additional estimated annual burden associated with amendments to Form N-PX		10	×	$335[5]	$3,350	$500
Proposed website availability requirement[6]		0.5	×	$254[6]	$127	
Estimated number of annual responses[8]		× 7,064			× 7,064	× 7,064
Total annual burden		181,545			$61,901,832	$10,596,000
Funds Not Holding Equity Securities						
Estimated annual burden of current Form N-PX per response		0.17	×	$373[3]	$63	
Additional estimated annual burden associated with amendments to Form N-PX						
Estimated number of annual responses[8]		× 3,188			× 3,188	
Total annual burden		542			$200,844	
Funds of Funds						
Estimated annual burden of current Form N-PX per response		1	×	$373[3]	$373	$100
Additional estimated annual burden associated with amendments to Form N-PX		0.5	×	$373[3]	$187	$100
Proposed website availability requirement[6]		0.5	×	$254[6]	$127	
Estimated number of annual responses[8]		× 1,367			× 1,367	× 1,367
Total annual burden		2,734			$939,129	$273,400
Institutional Investment Managers						
Changes to systems to accommodate new reporting requirements	30	10	×	$325[9]	$3,250	
Estimated annual burden associated with Form N-PX filing requirement		5	×	$335[10]	$1,675	$1,000

Estimated number of annual responses[11]	× 7,744	× 7,744	× 7,744
Total annual burden	116,160	$38,139,200	$7,744,000
Total Burden			
Current burden estimate	52,770	$18,973,904	$7,200,700
Additional burden estimate	248,211	$82,207,101	$11,412,700
Total annual burden	300,981	$101,181,005	$18,613,400

Certain products and sums do not tie due to rounding.

1. Includes initial burden estimates amortized over a three-year period.
2. The Commission's estimates of the relevant wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013. The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. See Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.
3. Represents the estimated hourly wage rate of a compliance attorney.
4. Represents the blended estimated hourly wage rates of a programmer (4 hours at $277/hour) and a compliance attorney (4 hours at $373/hour).
5. Represents the blended estimated hourly wage rates of a programmer (4 hours at $277/hour) and a compliance attorney (6 hours at $373/hour).
6. While the proposed amendments would require funds to disclose that their proxy voting records both are available on fund websites and will be delivered to investors upon request, the Form N-PX PRA estimates includes only the burdens associated with website posting. Funds' registration forms currently require them to disclose that they either make their proxy voting records available on their websites or deliver them upon request. We understand most funds deliver proxy voting records upon request and, therefore, the burdens of delivery upon request are already included in the information collection burdens of each relevant registration form.
7. Represents the estimated hourly wage rate of a webmaster.
8. These estimates are conducted for each fund portfolio, not for each filing, and are an average estimate across all Form N-PX filers. In certain cases, a single Form N-PX filing will report the proxy voting records of multiple fund portfolios. In those circumstances, the filer would bear the burden associated with each fund portfolio it reported. This average estimate takes into account higher costs for funds filing reports for multiple portfolios without assuming any economies of scale that multiple-portfolio fund complexes may be able to achieve.
9. Represents the blended estimated hourly wage rates of a programmer (5 hours at $277/hour) and a compliance attorney (5 hours at $373/hour).
10. Represents the blended estimated hourly wage rates of a programmer (2 hours at $277/hour) and a compliance attorney (3 hours at $373/hour).
11. Includes 7,550 initial filings and assumes an additional 194 filings as a result of the final adverse disposition of a request for confidential treatment or upon expiration of confidential treatment.

BILLING CODE 8011–01–C

Some commenters suggested that the burdens of the 2010 proposal on funds and managers would be greater than the Commission's estimates at that time, although none submitted quantitative estimates of a higher burden.[267] We also received a comment letter in connection with the Proxy Mechanics Concept Release regarding the estimated average burden hours per response on current Form N–PX, in which the commenter indicated that it believed the then-current PRA burden estimate understated the burden of an investment company's Form N–PX reporting obligations.[268] We are updating our estimates of the PRA burden associated with Form N–PX to reflect our proposed amendments and have taken commenters' feedback into account when developing these estimates.

We estimate that the proposed amendments would result in initial and ongoing burdens for funds. For example, we recognize that funds may need to make systems and other changes to comply with the proposed requirement to file Form N–PX reports in an XML structured data language and to categorize proxy voting matters. In addition, we understand that the proposed requirement to categorize votes may require some manual categorization or review on an ongoing basis. Further, while funds should already have information about the number of shares they voted (or instructed to be voted), the number of shares loaned and not recalled, and the description of the voting matter from the issuer's form of proxy, some changes may be needed to report the currently available information on Form N–PX.

In the 2010 proposal, we estimated that each manager required to file its record of say-on-pay votes on Form N–PX would have the same total internal hours burden and external cost burden as a fund. Our revised estimates take into account differences between the 2010 proposal and our current proposal, as well as that managers will only be required to report say-on-pay votes

[267] Brown Letter; Fidelity Letter; Glass Lewis Letter I (suggesting that the time and expense to provide disclosure regarding shared voting authority would be greater than estimated); ICI Letter (suggesting that the preparation, filing, and recordkeeping activities associated with the proposed Form N–PX amendments in 2010 would involve more than 1.5 hours of review by a compliance attorney); ISS Letter; Reiland Letter.

[268] *See* BlackRock Letter on Concept Release (stating that the then-estimated PRA burden of 9.6 hours ''grossly understates'' the time and expense required for an investment company to complete Form N–PX); Memorandum from the Division of Investment Management regarding November 29, 2010 telephone call with BlackRock, Inc., representatives (November 30, 2010), available at *http://www.sec.gov/comments/s7-30-10/s73010-33.pdf*. Based on the staff's subsequent conversation with the commenter, we believe that the burden estimates of the current form requirements in this release are appropriate, recognizing that the burden estimates are on a per portfolio basis, rather than a per filing basis, and that Form N–PX filings often contain multiple portfolios.

whereas funds are required to file their complete voting record. For example, we anticipate the proposed categorization requirement would be more burdensome for funds, which would be required to categorize each proxy vote, than for managers, which would be required to categorize only say-on-pay votes. We accordingly estimate that managers would bear approximately one-half of the ongoing annual burden borne by funds. We also estimate that managers would have larger initial burdens than funds because managers do not currently report on Form N–PX. While some managers advise funds and have experience with Form N–PX reporting, and some managers may otherwise be required to maintain records of their proxy voting decisions, we understand some systems or other changes may be needed to report information about say-on-pay votes on Form N–PX or to rely on the joint reporting provisions.[269]

We also estimate that managers would file approximately 194 amendments to Form N–PX reports as a result of the final adverse disposition of a request for confidential treatment or upon expiration of confidential treatment.[270] For purposes of this estimate, we are assuming that every manager will file its full record of say-on-pay votes on ''voting'' report, and not file a ''notice'' report. In practice, because certain managers exercise voting power over the same securities as other managers, or exercise voting power over say-on-pay votes that funds already report, the number of parties who need to separately maintain records and prepare filings may be lower.

We request comment on whether our estimates are reasonable. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) determine whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology. Persons wishing to submit comments on the collection of information requirements of the proposed amendments should direct them to the OMB Desk Officer for the Securities and Exchange Commission, *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov,* and should send a copy to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–11–21. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release; therefore a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–11–21, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

VI. Regulatory Flexibility Act Certification for Managers and Initial Regulatory Flexibility Analysis for Funds

A. Regulatory Flexibility Act Certification for Managers

Pursuant to section 605(b) of the Regulatory Flexibility Act (''RFA''), the Commission hereby certifies that proposed rule 14Ad–1 and the proposed amendments to Form N–PX relating to managers would not, if adopted, have a significant economic impact on a substantial number of small entities.[271] The Commission's rule under the Exchange Act that defines a ''small business'' and ''small organization'' does not explicitly reference managers.[272] However, rule 0–10 provides that the Commission may ''otherwise define'' small entities for purposes of a particular rulemaking proceeding. For purposes of the proposed amendments relating to Form N–PX reporting requirements for managers, the Commission has determined to use the definition of small entity under 17 CFR 275.0–7(a) as more appropriate to the functions of managers. The Commission believes that the proposed definition would help ensure that all persons or entities that might be managers under section 13(f) of the Exchange Act will be included within a category addressed by the definition. Therefore, for purposes of this rulemaking and the RFA, a manager is a small entity if it: (i) Has assets under management having a total value of less than $25 million; (ii) did not have total assets of $5 million or more on the last day of its most recent fiscal year; and (iii) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[273] The Commission requests comments on the use of this definition.

We are proposing that rule 14Ad–1 and associated Form N–PX reporting obligations for say-on-pay votes would extend to each person that (i) is an ''institutional investment manager'' as defined in the Exchange Act; and (ii) is required to file reports under section 13(f) of the Exchange Act. Managers are not required to submit reports on Form 13F unless they exercise investment discretion with respect to accounts holding section 13(f) securities having an aggregate fair market value on the last trading day of any month of any calendar year of at least $100 million.[274] Therefore, no small entities for purposes of rule 0–10 under the Exchange Act are affected by proposed rule 14Ad–1 and the amendments to Form N–PX relating to managers. Thus, there would be no significant economic impact on a substantial number of small entities associated with these aspects of the

[269] *See* DOL Interpretive Bulletin 2016–01 [29 CFR 2509.2016–01] (noting the Department of Labor's view that an investment manager or other ERISA plan fiduciary would be required to maintain accurate records as to proxy voting decisions). Some commenters on the 2010 proposal indicated that some changes to recordkeeping and reporting systems may be necessary if the Commission were to adopt those proposed amendments. *See* Glass Lewis Letter I; IAA Letter; ISS Letter; ABA Letter.

[270] *See* Confidential Treatment Instructions 6 and 7 to Form N–PX. In the 2010 proposal, we estimated that approximately 200 amendments to Form N–PX reports would be filed annually by managers as a result of the final adverse disposition of a request for confidential treatment or upon expiration of confidential treatment. Our current estimate is based on the number of Form 13F amendments received by the Commission during each of the four quarters in 2020, divided by four. For purposes of this estimate, we are conservatively assuming that all 194 amendments filed are related to the adverse disposition of a request for confidential treatment or the expiration of confidential treatment, and that this results in the full burden of a new Form N–PX filing being borne by the manager. We do so even though we recognize that Form 13F amendments also are filed to correct errors or omissions in a filing that does not relate to a request for confidential treatment. Like the existing PRA estimate for Form N–PX, our estimate does not allocate a separate burden to amendments that merely correct errors or omissions in a separate filing. For that reason, and because we assume funds would not file confidential treatment-related amendments, we are not including a burden estimate for amendments filed by funds. *See supra* Section II.G.

[271] 5 U.S.C. 605(b).

[272] 17 CFR 240.0–10 (''rule 0–10'').

[273] 17 CFR 275.0–7(a) (''rule 0–7(a)'').

[274] *See supra* footnote 32.

proposal. The Commission requests comment regarding this certification. The Commission requests that commenters describe the nature of any impact on small businesses and provide empirical data to support the extent of the impact.

B. Initial Regulatory Flexibility Act Analysis for Funds

This Initial Regulatory Flexibility Analysis (''IRFA'') has been prepared in accordance with section 3 of the RFA.[275] It relates to the Commission's proposed amendments to Form N–PX relating to funds, as well as proposed amendments to Forms N–1A, N–2, and N–3.

1. Reasons for and Objectives of the Proposed Actions

The Commission is proposing to amend Form N–PX under Investment Company Act to enhance the information mutual funds, ETFs, and certain other funds currently report annually about their proxy votes and to make that information easier to analyze. In addition, we are proposing amendments to Forms N–1A, N–2, and N–3 to require these funds to disclose that their proxy voting records are publicly available on (or through) their websites and available upon request, free of charge in both cases.

2. Legal Basis

The Commission is proposing the rule and form amendments that affect funds contained in this document under the authority set forth in the Securities Act [15 U.S.C. 77a *et seq.*], particularly sections 6, 7, 10, and 19(a) thereof, the Exchange Act, particularly sections 10(b), 13, 15(d), 23(a), 24, and 36 thereof [15 U.S.C. 78a *et seq.*], the Investment Company Act [15 U.S.C. 80a *et seq.*], particularly sections 8, 30, 31, 38, and 45 thereof.

3. Small Entities Subject to the Rule

For purposes of Commission rulemaking in connection with the RFA, an investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[276] Commission staff estimates that, as of December 2020, approximately 31 registered open-end mutual funds, 9 registered open-end ETFs, and 27 registered closed-end funds (collectively, 67 funds) are small entities.

4. Projected Reporting, Recordkeeping, and Other Compliance Requirements

We are proposing to amend Form N–PX, which funds currently use to file their complete proxy voting records with the Commission, to require reporting in a custom XML language, to require other formatting and presentation changes, and to add certain new or modified disclosure items.

We are proposing amendments to Form N–PX that would affect funds that are currently required to report on the form, including those that are small entities. For instance, we propose to require funds to tie the description of the voting matter to the issuer's form of proxy and to categorize voting matters by type. In addition, we are proposing to require information about the number of shares that were voted (or, if not known, the number of shares that were instructed to be cast), as well as the number of shares the fund loaned and did not recall. We are also proposing to require reporting of information on Form N–PX in a structured data language either via a Commission-supplied web-based form or as an XML file.

We are proposing a new section on the cover page of Form N–PX where the reporting person would provide information in cases where the form is filed as an amendment to a previously filed Form N–PX report. We are also requiring that the cover page include information to help users identify whether the reporting person is a fund or a manager. We are adding a new summary page to Form N–PX, on which a fund would be required to provide information about series whose votes are included in the report, if applicable.

For purposes of the PRA analysis, we have estimated that the aggregate annual reporting, administrative, and paperwork costs imposed by the form amendments on funds will be approximately $29 million.[277] We also estimate aggregate one-time reporting, administrative, and paperwork costs of approximately $55 million for funds that hold equity securities.[278]

5. Duplicative, Overlapping, or Conflicting Federal Rules

Except as otherwise discussed below, the Commission has not identified any Federal rules that duplicate, overlap, or conflict with the proposed rule. Currently, funds must file their proxy voting records on EDGAR and either disclose that they make those records available on their websites or deliver them to investors upon request. Under the proposal, funds would disclose that their proxy voting records are available on their websites and delivered upon request to investors. We acknowledge that filing proxy voting records with the Commission, posting them online, and delivering them upon request could result in some investors being able to access the same information in multiple ways or at multiple times, which could be duplicative. However, each of these different requirements would serve a unique purpose. We believe it is important for regulatory disclosures to be filed with the Commission for oversight and compliance purposes. Website posting would provide investors with broad access to this information and conforms with evolving investor preferences regarding the availability of fund disclosures.[279] Finally, delivery-upon-request could be especially important for investors who might not have reliable access to the internet or who might prefer paper disclosures.

6. Significant Alternatives

The RFA directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small entities. In connection with the amendments, the Commission considered the following alternatives: (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the amendments for small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the amendments, or any part thereof, for small entities.

The Commission believes that, at the present time, special compliance or reporting requirements for small entities, or an exemption from coverage for small entities, would not be appropriate. The proposed amendments are designed to increase transparency about how funds vote. Different disclosure requirements for small entities, such as reducing the level of proxy voting disclosure for small entities, could raise investor protection concerns for investors in small funds to the extent they would not have access to the same disclosures as investors in large funds. Small funds currently must follow the same proxy voting reporting

[275] 5 U.S.C. 603.

[276] See 17 CFR 270.0–10(a) [rule 0–10(a) under the Investment Company Act] (''rule 0–10'').

[277] *See supra* Section V, Table 2.

[278] *Id.*

[279] *See supra* footnote 205.

requirements as large funds in light of these concerns.

We have endeavored through the proposed amendments to Form N–PX to minimize the regulatory burden, including on small entities, while meeting our regulatory objectives. In response to comments on the 2010 proposal, we have modified the proposed quantitative disclosures in Form N–PX to: (1) Clarify the proposed disclosure of the number of shares voted; and (2) no longer propose to require disclosure of the number of shares the fund was entitled to vote. Reporting persons would be able to use a web-based reporting application developed by the Commission to generate the reports. We believe that these modifications to the approach in the 2010 proposal result in retention of key disclosures to help investors understand how a fund votes, while reducing the burdens on funds.

We have endeavored to clarify, consolidate, and simplify the proposed requirements applicable to funds, including those that are small entities. Finally, we do not consider the use of performance rather than design standards to be consistent with our statutory mandate of investor protection with respect to reporting of proxy voting records.

7. General Request for Comment

The Commission requests comments regarding this IRFA. We request comments on the number of small entities that may be affected by our proposed rules and guidelines, and whether the proposed rules and guidelines would have any effects not considered in this analysis. We request that commenters describe the nature of any effects on small entities subject to the rules and forms and provide empirical data to support the nature and extent of such effects. We also request comment on the proposed compliance burdens and the effect these burdens would have on smaller entities.

VII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''),[280] the Commission must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.

We request comment on whether our proposal would be a ''major rule'' for purposes of SBREFA. We solicit comment and empirical data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VIII. Statutory Authority

The Commission is proposing new rule 14Ad–1 pursuant to the authority set forth in sections 13, 14A, 23(a), 24, and 36 of the Exchange Act [15 U.S.C. 78m, 78n–1, 78w(a), 78x, and 78mm]. The Commission is proposing amendments to rule 30b1–4 pursuant to the authority set forth in sections 8, 30, 31, 38, and 45 of the Investment Company Act [15 U.S.C. 80a–8, 80a–29, 80a–30, 80a–37, and 80a–44]. The Commission is proposing amendments to Form N–PX pursuant to the authority set forth in sections 13, 14A, 23(a), 24, and 36 of the Exchange Act [15 U.S.C. 78m, 78n–1, 78w(a), 78x, and 78mm]; and sections 8, 30, 31, 38, and 45 of the Investment Company Act [15 U.S.C. 80a–8, 80a–29, 80a–30, 80a–37, and 80a–44]. The Commission is proposing amendments to Forms N–1A, N–2, and N–3 pursuant to the authority set forth in sections 5, 6, 7, 10, 19(a), and 28 of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, 77s(a), and 77z–3], sections 10(b), 13, 15(d), 23(a), and 36 of the Exchange Act [15 U.S.C. 78j(b), 78m, 78o(d), 78w(a), and 78mm], and sections 6(c), 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–6(c), 80a–8, 80a–24(a), 80a–29, and 80a–37]. The Commission is proposing amendments to rule 101 of Regulation S–T pursuant to the authority set forth in sections 14A(d), 23(a), and 35A of the Exchange Act [15 U.S.C. 78n–1, 78w(a), and 78*ll*]. The Commission is proposing to amend the heading of Subpart D of Part 249 pursuant to the authority set forth in sections 13 and 14A(d) of the Exchange Act [15 U.S.C. 78m and 78n–1].

List of Subjects

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

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

■ 1. The general authority citation for part 232 is amended to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78n–1, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Amend section 232.101 by revising paragraph (a)(1)(iii) to read as follows:

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(iii) Statements, reports, and schedules filed with the Commission pursuant to sections 13, 14, 14A(d), 15(d), or 16(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78n–1(d), 78o(d), and 78p(a)), and proxy materials required to be furnished for the information of the Commission in connection with annual reports on Form 10–K (§ 249.310 of this chapter), or Form 10–KSB (§ 249.310b of this chapter) filed pursuant to section 15(d) of the Exchange Act;

Note 1 to paragraph (a)(1)(iii). Electronic filers filing Schedules 13D and 13G with respect to foreign private issuers should include in the submission header all zeroes (*i.e.,* 00–0000000) for the IRS tax identification number because the EDGAR system requires an IRS number tag to be inserted for the subject company as a prerequisite to acceptance of the filing.

Note 2 to paragraph (a)(1)(iii). Foreign private issuers must file or submit their Form 6–K reports (§ 249.306 of this chapter) in electronic format, except as otherwise permitted by paragraphs (b)(1) and (b)(7) of this section.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 3. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn,

[280] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C., and as a note to 5 U.S.C. 601).

77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.,* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111–203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112–106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

■ 4. Add section 240.14Ad–1 to read as follows:

§ 240.14Ad–1 Report of proxy voting record.

(a) Subject to paragraphs (b) and (c) of this section, every institutional investment manager (as that term is defined in Section 13(f)(6)(A) of the Act (15 U.S.C. 78m(f)(6)(A))) that is required to file reports under Section 13(f) of the Act (15 U.S.C. 78m(f)) must file an annual report on Form N–PX (§§ 249.326 and 274.129 of this chapter) not later than August 31 of each year, for the most recent 12-month period ended June 30, containing the institutional investment manager's proxy voting record for each shareholder vote pursuant to Sections 14A(a) and (b) of the Act (15 U.S.C. 78n–1(a) and (b)) with respect to each security over which the manager exercised voting power (as defined in paragraph (d) of this section).

(b) An institutional investment manager is not required to file a report on Form N–PX (§§ 249.326 and 274.129 of this chapter) for the 12-month period ending June 30 of the calendar year in which the manager's initial filing on Form 13F (§ 249.325 of this chapter) is due pursuant to § 240.13f–1 of this part. For purposes of this paragraph, ''initial filing'' on Form 13F means any quarterly filing on Form 13F if no filing on Form 13F was required for the immediately preceding calendar quarter.

(c) An institutional investment manager is not required to file a report on Form N–PX (§§ 249.326 and 274.129 of this chapter) with respect to any shareholder vote at a meeting that occurs after September 30 of the calendar year in which the manager's final filing on Form 13F (§ 249.325 of this chapter) is due pursuant to § 240.13f–1 of this chapter. An institutional investment manager is required to file a Form N–PX for the period July 1 through September 30 of the calendar year in which the manager's final filing on Form 13F is due pursuant to § 240.13f–1 of this chapter; this filing is required to be made not later than March 1 of the immediately following calendar year. For purposes of this paragraph, ''final filing'' on Form 13F means any quarterly filing on Form 13F if no filing on Form 13F is required for the immediately subsequent calendar quarter.

(d) For purposes of this section:

(1) *Voting power* means the ability, through any contract, arrangement, understanding, or relationship, to vote the security or direct the voting of a security, including the ability to determine whether to vote the security or to recall a loaned security.

(2) *Exercise* of voting power means using voting power to influence a voting decision with respect to a security.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 5. The general authority citation for part 249 continues to read as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* and 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), Sec. 72001 Pub. L. 114–94, 129 Stat. 1312 (2015, and secs. 2 and 3 Pub. L. 116–222, 134 Stat. 1063 (2020), unless otherwise noted.

* * * * *

Subpart D—Forms for Annual and Other Reports of Issuers and Other Persons Required Under Sections 13, 14A, and 15(d) of the Securities Exchange Act of 1934

■ 6. Revise the heading for Subpart D to read as set forth above:

■ 7. Add § 249.326 to read as follows:

§ 249.326 Form N–PX, annual report of proxy voting record.

This form shall be used by institutional investment managers to file an annual report pursuant to § 240.14Ad–1 of this chapter containing the manager's proxy voting record.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 8. The general authority citation for part 270 continues to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

§ 270.30b1–4 [Amended]

■ 9. Amend § 270.30b1–4 by removing the phrase ''Form N–PX (§ 274.129 of this chapter)'' and adding in its place ''Form N–PX (§§ 249.326 and 274.129 of this chapter)''.

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

■ 10. The authority citation for part 274 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l,* 78m, 78n, 78n–1, 78*o*(d), 80a–8, 80a–24, 80a–26, 80a–29, and Pub L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

■ 11. Amend Form N–1A (referenced in §§ 239.15A and 274.11A) by revising Item 17(f) and Item 27(d)(5).

The revisions read as follows:

Note: The text of Form N–1A does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N–1A

* * * * *

Item 17. Management of the Fund

* * * * *

(f) *Proxy Voting Policies.* Unless the Fund invests exclusively in non-voting securities, describe the policies and procedures that the Fund uses to determine how to vote proxies relating to portfolio securities, including the procedures that the Fund uses when a vote presents a conflict between the interests of Fund shareholders, on the one hand, and those of the Fund's investment adviser; principal underwriter; or any affiliated person of the Fund, its investment adviser, or its principal underwriter, on the other. Include any policies and procedures of the Fund's investment adviser, or any other third party, that the Fund uses, or that are used on the Fund's behalf, to determine how to vote proxies relating to portfolio securities. Also, state that information regarding how the Fund voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (1) without charge, upon request, by calling a specified toll-free telephone number and, if any, contacting a specified email address; (2) on or through the Fund's website at a specified internet address; and (3) on the Commission's website at *http://www.sec.gov.*

Instructions

1. A Fund may satisfy the requirement to provide a description of the policies and procedures that it uses to determine how to vote proxies relating to portfolio securities by including a copy of the policies and procedures themselves.

2. If a Fund (or financial intermediary through which shares of the Fund may be purchased or sold) receives a request for the Fund's proxy voting record by

phone or email, the Fund (or financial intermediary) must send the information disclosed in the Fund's most recently filed report on Form N–PX in a human-readable format, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. A Fund must make publicly available free of charge the information disclosed in the Fund's most recently filed report on Form N–PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Fund's most recently filed report on Form N–PX must be in a human-readable format and remain available on or through the Fund's website for as long as the Fund remains subject to the requirements of Rule 30b1–4 (17 CFR 270.30b1–4).

* * * * *

Item 27. Financial Statements

* * * * *

(d) *Annual and Semiannual Reports.* Every annual and semiannual report to shareholders required by rule 30e–1 must contain the following:

* * * * *

(5) *Statement Regarding Availability of Proxy Voting Record.* A statement that information regarding how the Fund voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (i) without charge, upon request, by calling a specified toll-free telephone number and, if any, contacting a specified email address; (ii) on or through the Fund's website at a specified internet address; and (iii) on the Commission's website at *http://www.sec.gov.*

Instructions

1. If a Fund (or financial intermediary through which shares of the Fund may be purchased or sold) receives a request for the Fund's proxy voting record by phone or email, the Fund (or financial intermediary) must send the information disclosed in the Fund's most recently filed report on Form N–PX in a human-readable format, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

2. A Fund must make publicly available free of charge the information disclosed in the Fund's most recently filed report on Form N–PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Fund's most recently filed report on Form N–PX must be in a human-readable format and remain available on or through the Fund's website for as long as the Fund remains subject to the requirements of rule 30b1–4 (17 CFR 270.30b1–4).

* * * * *

■ 12. Amend Form N–2 (referenced in §§ 239.14 and 274.11a–1) by revising Item 18.16, Item 24.6.d, and Item 24.8.

The revisions read as follows:

Note: The text of Form N–2 does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N–2

* * * * *

Item 18. Management

* * * * *

16. Unless the Registrant invests exclusively in non-voting securities, describe the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities, including the procedures that the Registrant uses when a vote presents a conflict between the interests of the Registrant's shareholders, on the one hand, and those of the Registrant's investment adviser; principal underwriter; or any affiliated person (as defined in Section 2(a)(3) of the Investment Company Act and the rules thereunder) of the Registrant, its investment adviser, or its principal underwriter, on the other. Include any policies and procedures of the Registrant's investment adviser, or any other third party, that the Registrant uses, or that are used on the Registrant's behalf, to determine how to vote proxies relating to portfolio securities. Also, state that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (i) without charge, upon request, by calling a specified toll-free telephone number and, if any, contacting a specified email address; (ii) on or through the Registrant's website at a specified internet address; and (iii) on the Commission's website at *http://www.sec.gov.*

Instructions

1. A Registrant may satisfy the requirement to provide a description of the policies and procedures that it uses to determine how to vote proxies relating to portfolio securities by including a copy of the policies and procedures themselves.

2. If a Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for the Registrant's proxy voting record by phone or email, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N–PX [17 CFR 274.129] in a human-readable format, within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. A Registrant must make publicly available free of charge the information disclosed in the Registrant's most recently filed report on Form N–PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N–PX must be in a human-readable format and remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of Rule 30b1–4 under the Investment Company Act [17 CFR 270.30b1–4].

* * * * *

Item 24. Financial Statements

* * * * *

6. Every annual and semiannual report to shareholders required by Section 30(e) of the Investment Company Act and Rule 30e–1 thereunder shall contain the following information:

* * * * *

d. A statement that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (1) without charge, upon request, by calling a specified toll-free telephone number and, if any, contacting a specified email address; (2) on or through the Registrant's website at a specified internet address; and (3) on the Commission's website at *http://www.sec.gov.*

* * * * *

8. a. When a Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for a description of the policies and procedures that the Registrant uses to determine how to vote proxies, the Registrant (or financial intermediary) must send the information most recently disclosed in response to Item 18.16 of this Form or Item 7 of Form N–CSR within 3 business days of receipt of the request, by first-class mail or other means

designed to ensure equally prompt delivery.

b. If a Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for the Registrant's proxy voting record by phone or email, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N–PX in a human-readable format, within 3 business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

c. A Registrant must make publicly available free of charge the information disclosed in the Registrant's most recently filed report on Form N–PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N–PX must be in a human-readable format and remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of Rule 30b1–4 under the Investment Company Act.

* * * * *

■ 13. Amend Form N–3 (referenced in §§ 239.17a and 274.11b) by revising Item 23(f), Item 31.4(d), and Item 31.6.

The revisions read as follows:

Note: The text of Form N–3 does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N–3

* * * * *

Item 23. Management of the Registrant

* * * * *

(f) *Proxy Voting Policies.* Unless the Registrant invests exclusively in non-voting securities, describe the policies and procedures that the Registrant uses to determine how to vote proxies relating to portfolio securities, including the procedures that the Registrant uses when a vote presents a conflict between the interests of investors, on the one hand, and those of the Registrant's investment adviser; principal underwriter; or any affiliated person of the Registrant, its investment adviser, or its principal underwriter, on the other. Include any policies and procedures of the Registrant's investment adviser, or any other third party, that the Registrant uses, or that are used on the Registrant's behalf, to determine how to vote proxies relating to portfolio securities. Also, state that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (1) without charge, upon request, by calling a specified toll-free telephone number and, if any, contacting a specified email address; (2) on or through the Registrant's website at a specified internet address; and (3) on the Commission's website at *http://www.sec.gov.*

Instructions

1. A Registrant may satisfy the requirement to provide a description of the policies and procedures that it uses to determine how to vote proxies relating to portfolio securities by including a copy of the policies and procedures themselves.

2. If a Registrant (or financial intermediary through which shares of the Registrant may be purchased or sold) receives a request for the Registrant's proxy voting record by phone or email, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N–PX [17 CFR 274.129] in a human-readable format, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

3. A Registrant must make publicly available free of charge the information disclosed in the Registrant's most recently filed report on Form N–PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N–PX must be in a human-readable format and remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of rule 30b1–4 [17 CFR 270.30b1–4].

* * * * *

Item 31. Financial Statements

* * * * *

4. Every report required by section 30(e) of the 1940 Act and rule 30e–1 under it [17 CFR 270.30e–1] shall contain the following information:

* * * * *

(d) a statement that information regarding how the Registrant voted proxies relating to portfolio securities during the most recent 12-month period ended June 30 is available (i) without charge, upon request, by calling a specified toll-free telephone number and, if any, contacting a specified email address; (ii) on or through the Registrant's website at a specified internet address; and (iii) on the Commission's website at *http://www.sec.gov;*

* * * * *

6. (a) When a Registrant (or financial intermediary through which units of the Registrant may be purchased or sold) receives a request for a description of the policies and procedures that the Registrant uses to determine how to vote proxies, the Registrant (or financial intermediary) must send the information disclosed in response to Item 23(f) of this Form, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(b) If a Registrant (or financial intermediary through which units of the Registrant may be purchased or sold) receives a request for the Registrant's proxy voting record by phone or email, the Registrant (or financial intermediary) must send the information disclosed in the Registrant's most recently filed report on Form N–PX [17 CFR 274.129] in a human readable format, within three business days of receipt of the request, by first-class mail or other means designed to ensure equally prompt delivery.

(c) A Registrant must make publicly available free of charge the information disclosed in the Registrant's most recently filed report on Form N–PX on or through its website as soon as reasonably practicable after filing the report with the Commission. The information disclosed in the Registrant's most recently filed report on Form N–PX must be in a human-readable format and remain available on or through the Registrant's website for as long as the Registrant remains subject to the requirements of rule 30b1–4 under the Investment Company Act [17 CFR 270.30b1–4].

* * * * *

■ 14. The heading of § 274.129 is revised to read as follows:

§ 274.129 Form N–PX, annual report of proxy voting record.

* * * * *

■ 15. Form N–PX (referenced in §§ 249.326 and 274.129) is revised to read as follows:

Note: The text of Form N–PX does not, and these amendments will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, DC 20549

FORM N–PX

Annual Report of Proxy Voting Record

General Instructions

A. Rule as to Use of Form N–PX

Form N–PX is to be used by a registered management investment company, other than small business investment company registered on Form N–5 (17 CFR 239.24 and 274.5), to file the registered management investment company's complete proxy voting record pursuant to Section 30 of the Investment Company Act of 1940 (''Investment Company Act'') and Rule 30b1–4 thereunder (17 CFR 270.30b1–4). Form N–PX also is to be used by a person that is required to file reports under Rule 13f–1 (''Institutional Manager''), to file the Institutional Manager's proxy voting record regarding votes pursuant to Sections 14A(a) and (b) of the Securities Exchange Act of 1934 (''Exchange Act'') on certain executive compensation matters, pursuant to Section 14A(d) of the Exchange Act and Rule 14Ad–1 thereunder (17 CFR 240.14Ad–1). Form N–PX is to be filed not later than August 31 of each year for the most recent 12-month period ended June 30, except in the case of Institutional Managers that make initial or final filings on Form 13F during the relevant 12-month period as described in General Instruction F.

B. Application of General Rules and Regulations

The General Rules and Regulations under the Investment Company Act and the Exchange Act contain certain general requirements that are applicable to reporting on any form under those Acts. These general requirements should be read and observed carefully in the preparation and filing of reports on this form, except that any provision in the form or in these instructions is controlling.

C. Joint Reporting Rules

1. If two or more Institutional Managers, each of which is required by Rule 14Ad–1 to file a report on Form N–PX for the reporting period, exercised voting power over the same securities on a vote pursuant to Section 14A(a) or (b) of the Exchange Act, only one such Institutional Manager must include the information regarding that vote in its report on Form N–PX.

2. Two or more Institutional Managers that are affiliated persons, as defined in Section 2(a)(3) of the Investment Company Act, may file a joint report on a single Form N–PX notwithstanding that such Institutional Managers do not exercise voting power over the same securities.

3. An Institutional Manager is not required to report proxy votes that are reported on a Form N–PX report that is filed by a Fund.

4. An Institutional Manager that exercised voting power over any security with respect to proxy votes that are reported by another Institutional Manager or Managers pursuant to General Instruction C.1 or C.2, or are reported on a Form N–PX report filed by a Fund, must identify each Institutional Manager and Fund reporting on its behalf in the manner described in Special Instruction B.2.c. and d.

5. An Institutional Manager reporting proxy votes on behalf of another Institutional Manager pursuant to General Instruction C.1 or C.2 must identify any other Institutional Managers on whose behalf the filing is made in the manner described in Special Instruction C.2.

6. A Fund reporting proxy votes that would otherwise be required to be reported by an Institutional Manager must identify any Institutional Managers on whose behalf the filing is made in the manner described in Special Instruction C.2.

D. Signature and Filing of Report

1. a. For reports filed by a Fund, the report must be signed on behalf of the Fund by its principal executive officer or officers. For reports filed by Institutional Managers, the report must be signed on behalf of the Institutional Manager by an authorized person. Attention is directed to Rule 12b–11 under the Exchange Act and Rule 8b–11 under the Investment Company Act concerning signatures.

b. The name and title of each person who signs the report shall be typed or printed beneath his or her signature.

2. A reporting person must file reports on Form N–PX electronically using the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system in accordance with Regulation S–T, except as provided by the Confidential Treatment Instructions. Consult the EDGAR Filer Manual and Appendices for EDGAR filing instructions.

E. Definitions

As used in this Form N–PX, the terms set out below have the following meanings:

''Fund'' means a registered management investment company (other than a small business investment company registered on Form N–5 (17 CFR 239.24 and 274.5)) or a separate Series of the registered management investment company.

''Institutional Manager'' means a person that is required to file reports under Rule 13f–1 under the Exchange Act.

''Reporting Person'' means the Institutional Manager or Fund filing this report or on whose behalf the report is filed.

''Series'' means shares offered by a registered management investment company that represent undivided interests in a portfolio of investments and that are preferred over all other series of shares for assets specifically allocated to that series in accordance with Rule 18f–2(a) under the Investment Company Act [17 CFR 270.18f–2(a)].

F. Transition Rules for Institutional Managers

1. An Institutional Manager is not required to file a report on Form N–PX for the 12-month period ending June 30 of the calendar year in which the manager's initial filing on Form 13F is due pursuant to Rule 13f–1 under the Exchange Act. For purposes of this paragraph, an ''initial filing'' on Form 13F means any quarterly filing on Form 13F if no filing on Form 13F was required for the immediately preceding calendar quarter.

2. An Institutional Manager is not required to file a report on Form N–PX with respect to any shareholder vote at a meeting that occurs after September 30 of the calendar year in which the manager's final filing on Form 13F is due pursuant to Rule 13f–1 under the Exchange Act. An Institutional Manager is required to file a Form N–PX for the period July 1 through September 30 of the calendar year in which the manager's final filing on Form 13F is due pursuant to Rule 13f–1 under the Exchange Act; this filing is required to be made not later than March 1 of the immediately following calendar year. For purposes of this paragraph, a ''final filing'' on Form 13F means any quarterly filing on Form 13F if no filing on Form 13F is required for the immediately subsequent calendar quarter.

Special Instructions

A. Organization of Form N–PX

1. This form consists of three parts: the Form N–PX Cover Page (''Cover Page''), the Form N–PX Summary Page (''Summary Page''), and the proxy voting information required by the form (''Proxy Voting Information'').

2. Present the Cover Page and the Summary Page information in the

format and order provided in the form. Do not include any additional information on the Summary Page.

B. Cover Page

1. Amendments to a Form N–PX report must either restate the Form N–PX report in its entirety or include only proxy voting information that is being reported in addition to the information already reported in a current public Form N–PX report for the same period. If the Form N–PX report is filed as an amendment, then the reporting person must check the amendment box on the Cover Page, enter the amendment number, and check the appropriate box to indicate whether the amendment (a) is a restatement or (b) adds new Proxy Voting Information. Each amendment must include a complete Cover Page and, if applicable, a Summary Page.

2. Designate the Report Type for the Form N–PX report by checking the appropriate box in the Report Type section of the Cover Page, and include, where applicable, the List of Other Persons Reporting for this Manager (on the Cover Page), the Summary Page, and the Proxy Voting Information, as follows:

a. For a report by a Fund, check the box for Report Type ''Registered Management Investment Company Report,'' omit from the Cover Page the List of Other Persons Reporting for this Manager, and include both the Summary Page and the Proxy Voting Information.

b. For a report by an Institutional Manager that includes all proxy votes required to be reported by the Institutional Manager, check the box for Report Type ''Institutional Manager Voting Report,'' omit from the Cover Page the List of Other Persons Reporting for this Manager, and include both the Summary Page and the Proxy Voting Information.

c. For a report by an Institutional Manager, when all proxy votes required to be reported by the Institutional Manager are reported by another Institutional Manager or Managers or by one or more Funds, check the box for Report Type ''Institutional Manager Notice,'' include (on the Cover Page) the List of Other Persons Reporting for this Manager, and file the Cover Page and required signature only.

d. For a report by an Institutional Manager, if only part of the proxy votes required to be reported by the Institutional Manager are reported by another Institutional Manager or Managers or one or more Funds, check the box for Report Type ''Institutional Manager Combination Report,'' include (on the Cover Page) the List of Other Persons Reporting for this Manager, and include both the Summary Page and the Proxy Voting Information.

3. If the Institutional Manager has a number assigned by the Financial Industry Regulatory Authority's Central Registration Depository system or by the Investment Adviser Registration Depository system (''CRD number''), provide the Manager's CRD number. If the Institutional Manager has a file number (*e.g.,* 801–, 8–, 866–, 802-) assigned by the Commission (''SEC file number''), provide the Manager's SEC file number.

4. The Cover Page may include information in addition to the required information, so long as the additional information does not, either by its nature, quantity, or manner of presentation, impede the understanding or presentation of the required information. Place all additional information at the end of the Cover Page, except as permitted by paragraph (m) of Item 1.

C. Summary Page

1. Include on the Summary Page the number of included Institutional Managers with votes reported in this Form N–PX report pursuant to General Instruction C. Enter as the number of included Institutional Managers the total number of Institutional Managers in the list of included Institutional Managers on the Summary Page, and do not count the reporting person filing this report. *See* Special Instruction C.2. If none, enter the number zero (''0'').

2. Include on the Summary Page the list of included Institutional Managers with votes reported in this Form N–PX report pursuant to General Instruction C. Use the title, column headings, and format provided.

a. If this Form N–PX report does not report the proxy votes of any Institutional Manager other than the reporting person, enter the word ''NONE'' under the title and omit the column headings and list entries.

b. If this Form N–PX report reports the proxy votes of one or more Institutional Managers other than the reporting person, enter in the list of included Institutional Managers all such Institutional Managers together with their respective Form 13F file numbers, if known and their respective CRD Numbers and SEC File Numbers, if applicable and if known. (The Form 13F file numbers are assigned to Institutional Managers when they file their first Form 13F). Assign a number to each Institutional Manager in the list of included Institutional Managers, and present the list in sequential order. The numbers need not be consecutive. Do not include the reporting person filing this report.

3. For reports filed by a Fund, include on the Summary Page the total number of Series of the Fund reported in this Form N–PX, if any, the name of each Series included, and each Series identification number. If this Form N–PX report does not report the proxy votes of any Series, enter the word ''NONE'' under the title and omit the column headings and list entries.

D. Proxy Voting Information

1. Disclose the information required or permitted by Item 1 in the order presented in paragraphs (a) through (m) of Item 1.

2. The CUSIP number or ISIN required by paragraph (b) or (c) of Item 1 may be omitted if it is not available through reasonably practicable means, *e.g.,* in the case of certain securities of foreign issuers. The ISIN may also be omitted if the CUSIP number is reported.

3. Item 1(e) requires an identification of the matter for all matters. In responding to Item 1(e), identify all matters in the same order as on the form of proxy and identify each matter using the same language as on the form of proxy. For election of directors, identify each director separately in the same order as on the form of proxy, even if the election of directors is presented as a single matter on the form of proxy.

4. Item 1(f) requires the reporting person to categorize each matter from a list of categories and subcategories that may apply to such matter. In responding to Item 1(f), a reporting person must choose all categories or subcategories applicable to such matter.

5. In responding to paragraph (h) of Item 1, a reporting person may use the number of shares voted as reflected in its records at the time of filing a report on Form N–PX. If the reporting person has not received confirmation of the actual number of votes cast prior to filing a report on Form N–PX, the numbers reported may reflect the number of shares instructed to be cast. A reporting person is not required to amend a previously filed Form N–PX report if the reporting person subsequently receives confirmation of the actual number of votes cast.

6. In responding to paragraphs (h) and (i) of Item 1:

a. An Institutional Manager must report the number of shares that the Institutional Manager is reporting on behalf of another Institutional Manager pursuant to General Instruction C.1 or C.2 separately from the number of shares that the Institutional Manager is

reporting only on its own behalf. An Institutional Manager also must separately report shares when the groups of Institutional Managers on whose behalf the shares are reported are different. For example, if the reporting Institutional Manager is reporting on behalf of Manager A with respect to 10,000 shares and on behalf of Managers A and B with respect to 50,000 shares, then the groups of 10,000 and 50,000 shares must be separately reported.

b. A Fund must separately report shares that are reported on behalf of different Institutional Managers or groups of Institutional Managers pursuant to General Instruction C.3.

7. For purposes of paragraph (i) of Item 1, a reporting person is considered to have loaned securities if it loaned the securities directly or loaned the securities indirectly through a lending agent.

8. If management did not make a recommendation on how to vote on a particular matter, a reporting person should respond ''none'' to paragraph (k) of Item 1 for that matter.

9. In the case of a reporting person that is a Fund that offers multiple series of shares, provide the information required by Item 1 separately by Series (for example, provide Series A's full proxy voting record, followed by Series B's full proxy voting record).

10. In response to paragraph (m), a reporting person may provide additional information about the matter or how it voted, provided the information does not, either by its nature, quantity, or manner of presentation, impede the understanding or presentation of the required information. The disclosure permitted by paragraph (m) is optional. A reporting person is not required to respond to paragraph (m) for any vote, and if a reporting person does provide additional information for one or more votes, it is not required to provide this information for all votes.

Confidential Treatment Instructions

1. A reporting person should make requests for confidential treatment of information reported on this form in accordance with Rule 24b–2 under the Exchange Act (17 CFR 240.24b–2).

2. Rule 24b–2 requires a person filing confidential information with the Commission to indicate at the appropriate place in the public filing that the confidential portion has been so omitted and filed separately with the Commission. A reporting person should comply with this provision by including on the Summary Page, after the number of included Institutional Managers and prior to the list of included Institutional Managers, a statement that confidential information has been omitted from the public Form N–PX report and filed separately with the Commission.

3. A reporting person must file all requests for and information subject to the request for confidential treatment in accordance with the instructions for filing confidential treatment requests for information filed on Form 13F.

4. A reporting person requesting confidential treatment must provide enough factual support for its request to enable the Commission to make an informed judgment as to the merits of the request, including a demonstration that the information is both customarily and actually kept private by the reporting person, and that release of this information could cause harm to the reporting person. If a request for confidential treatment of information filed on Form N–PX relates to a request for confidential treatment of information included in an Institutional Manager's filing on Form 13F, the Institutional Manager should so state and identify the related request. In such cases, the Institutional Manager need not repeat the analysis set forth in the request for confidential treatment in connection with the Form 13F filing. The Institutional Manager's request, however, must explain whether and, if so, how the Form N–PX and Form 13F confidential treatment requests are related and should identify if any of the analysis in its request for confidential treatment on Form 13F does not apply, or applies differently, to its report on Form N–PX.

5. State the period of time for which confidential treatment of the proxy voting information is requested. The time period specified may not exceed one (1) year from the date that the Form N–PX report is required to be filed with the Commission. The request must include a justification of the time period for which confidential treatment is requested, as required by Rule 24b–2(b)(2)(ii).

6. At the expiration of the period for which confidential treatment has been granted (the ''Expiration Date''), the Commission, without additional notice to the reporting person, will make the proxy voting information public unless a *de novo* request for confidential treatment of the information that meets the requirements of Rule 24b–2 and these Confidential Treatment Instructions is filed with the Commission at least fourteen (14) days in advance of the Expiration Date.

7. Upon the final adverse disposition of a request for confidential treatment, or upon the expiration of the confidential treatment previously granted for a filing, unless a hardship exemption is available, the reporting person must submit electronically, within six (6) business days of the expiration or notification of the final disposition, as applicable, an amendment to its publicly filed Form N–PX report that includes the proxy voting information as to which the Commission denied confidential treatment or for which confidential treatment has expired. An amendment filed under such circumstances must not be a restatement; the reporting person must designate it as an amendment which adds new proxy voting information. The reporting person must include at the top of the Form N–PX Cover Page the following legend to correctly designate the type of filing being made:

This filing lists proxy vote information reported on the Form N–PX filed on (date) pursuant to a request for confidential treatment and for which (that request was denied/confidential treatment expired) on (date).

Paperwork Reduction Act Information

Form N–PX is to be used by a Fund to file reports with the Commission pursuant to Section 30 of the Investment Company Act and Rule 30b1–4 thereunder. Form N–PX also is to be used by an Institutional Manager to file reports with the Commission as required by Section 14A(d) of the Exchange Act and Rule 14Ad–1 thereunder. Form N–PX is to be filed not later than August 31 of each year, containing the reporting person's proxy voting record for the most recent 12-month period ended June 30. The Commission may use the information provided on Form N–PX in its regulatory, disclosure review, inspection, and policymaking roles.

Funds and Institutional Managers are required to disclose the information specified by Form N–PX, and the Commission will make this information public. Funds and Institutional Managers are not required to respond to the collection of information contained in Form N–PX unless the Form displays a currently valid Office of Management and Budget (''OMB'') control number. Please direct comments concerning the accuracy of the information collection burden estimate and any suggestions for reducing the burden to the Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. The OMB has reviewed this collection of information under the clearance requirements of 44 U.S.C. 3507.

BILLING CODE 8011–01–P

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM N-PX

ANNUAL REPORT OF PROXY VOTING RECORD

FORM N-PX COVER PAGE

_____
(Name of reporting person) (For registered management investment companies, provide exact name of registrant as specified in charter)

_____
(Address of principal executive offices) (Zip code)

_____
(Name and address of agent for service)

Telephone number of reporting person, including area code: _____

Report for the [year ended June 30, _____] [period July 1, _____ to September 30, _____]

SEC Investment Company Act or Form 13F File Number: [811-] [028-]_____

CRD Number (if applicable): _____

Other SEC File Number (if applicable): _____

Check here if amendment ☐; Amendment number: _____

This Amendment (check only one): ☐ is a restatement.

☐ adds new proxy voting entries.

Report Type (check only one):

☐ Registered Management Investment Company Report.

☐ Institutional Manager Voting Report (Check here if all proxy votes of this reporting manager are reported in this report.)

☐ Institutional Manager Notice (Check here if no proxy votes reported are in this report, and all proxy votes are reported by other reporting person(s).)

☐ Institutional Manager Combination Report (Check here if a portion of the proxy votes for this reporting manager are reported in this report and a portion

are reported by other reporting person(s).)

List of Other Persons Reporting for this Manager:
[If there are no entries in this list, omit this section.]

Investment Company Act or Form 13F File Number	CRD Number (if applicable)	Other SEC File Number (if applicable)	Name
[811-] [028-]_____	_____	_____	_____

[Repeat as necessary.]

FORM N-PX SUMMARY PAGE

Information about Institutional Managers.

Number of Included Institutional Managers: _____

List of Included Institutional Managers:

Provide a numbered list of the name(s), 13F file number(s), CRD Numbers (if applicable), and SEC File Number(s) (if applicable) of all Institutional Managers with respect to which this report is filed, other than the reporting person filing this report.

[If there are no entries in this list, state "NONE" and omit the column headings and list entries.]

No.	Form 13F File Number	CRD Number (if applicable)	SEC File Number (if applicable)	Name
_____	28-_____	_____	_____	_____

[Repeat as necessary.]

Information about the Series.

Number of Series: _____

Provide a list of the name(s) and identification number(s) of all Series with respect to which this report is filed.

[If there are no entries in this list, state "NONE" and omit the column headings and list entries.]

Series Identification Number	Series Name
_____	_____

[Repeat as necessary.]

FORM N–PX

Item 1. Proxy Voting Record

If the reporting person is a Fund, disclose the following information for each matter relating to a portfolio security considered at any shareholder meeting held during the period covered by the report and with respect to which the reporting person was entitled to vote, including securities on loan for purposes of this form. If the reporting person is an Institutional Manager, disclose the following information for each shareholder vote pursuant to Sections 14A(a) and (b) of the Exchange Act over which the manager exercised voting power, as defined in Rule 14Ad–1(d) under the Exchange Act [17 CFR 240.14Ad–1]. If a reporting person does not have any proxy votes to report for the reporting period, the reporting person must file a report with the Commission stating that the reporting person does not have proxy votes to report.

(a) The name of the issuer of the security;

(b) The Council on Uniform Securities Identification Procedures (''CUSIP'') number for the security;

(c) The International Securities Identification Number (''ISIN'') for the security;

(d) The shareholder meeting date;

(e) An identification of the matter voted on;

(f) All categories and subcategories applicable to the matter voted on from the following list of categories and subcategories:

(A) Board of directors (subcategories: director election, term limits, committees, size of board, or other board of directors matters (along with a brief description));

(B) Section 14A say-on-pay votes (subcategories: 14A executive compensation, 14A executive compensation vote frequency, or 14A extraordinary transaction executive compensation);

(C) Audit-related (subcategories: Auditor ratification, auditor rotation, or other audit-related matters (along with a brief description));

(D) Investment company matters (subcategories: Change to investment management agreement, new investment management agreement, assignment of investment management agreement, business development company approval of restricted securities, closed-end investment company issuance of shares below net asset value, business development company asset coverage ratio change, or other investment company matters (along with a brief description));

(E) Shareholder rights and defenses (subcategories: Adoption or modification of a shareholder rights plan, control share acquisition provisions, fair price provisions, board classification, cumulative voting, or other shareholder rights and defenses matters (along with a brief description));

(F) Extraordinary transactions (subcategories: Merger, asset sale, liquidation, buyout, joint venture, going private, spinoff, delisting, or other extraordinary transaction matters (along with a brief description));

(G) Security issuance (subcategories: Equity, debt, convertible, warrants, units, rights, or other security issuance matters (along with a brief description));

(H) Capital structure (subcategories: Stock split, reverse stock split, dividend, buyback, tracking stock, adjustment to par value, authorization of additional stock, or other capital structure matters (along with a brief description));

(I) Compensation (subcategories: Board compensation, executive compensation (other than Section 14A say-on-pay), board or executive anti-hedging, board or executive anti-pledging, compensation clawback, 10b5–1 plans, or other compensation matters (along with a brief description));

(J) Corporate governance (subcategories: Articles of incorporation or bylaws, board committees, codes of ethics, or other corporate governance matters (along with a brief description));

(K) Meeting governance (subcategories: Approval to adjourn, acceptance of minutes, or other meeting governance matters (along with a brief description));

(L) Environment or climate (subcategories: Greenhouse gas (GHG) emissions, transition planning or reporting, biodiversity or ecosystem risk, chemical footprint, renewable energy or energy efficiency, water issues, waste or pollution, deforestation or land use, say-on-climate, environmental justice, or other environment or climate matters (along with a brief description));

(M) Human rights or human capital/workforce (subcategories: Workforce-related mandatory arbitration, supply chain exposure to human rights risks, outsourcing or offshoring, workplace sexual harassment, or other human rights or human capital/workforce matters (along with a brief description));

(N) Diversity, equity, and inclusion (subcategories: Board diversity, pay gap, or other diversity, equity, and inclusion matters (along with a brief description));

(O) Political activities (subcategories: Lobbying, political contributions, or other political activity matters (along with a brief description));

(P) Other social (subcategories: Data privacy, responsible tax policies, charitable contributions, consumer protection, or other social matters (along with a brief description)); or

(Q) Other (along with a brief description).

(g) For reports filed by Funds, disclose whether the matter was proposed by the issuer or by a security holder and, if by a security holder, whether the matter was a proposal or counterproposal;

(h) The number of shares that were voted, with the number zero (''0'') entered if no shares were voted;

(i) The number of shares that the reporting person loaned and did not recall;

(j) How the shares in paragraph (h) were voted (*e.g.,* for or against proposal, or abstain; for or withhold regarding election of directors) and, if the votes were cast in multiple manners (*e.g.,* for and against), the number of shares voted in each manner;

(k) Whether the votes disclosed in paragraph (j) represented votes for or against management's recommendation;

(l) Identify each Institutional Manager on whose behalf this Form N–PX report is being filed (other than the reporting person filing the report) and that exercised voting power over the securities voted by entering the number assigned to the Institutional Manager in the List of Included Institutional Managers; and

(m) Any other information the reporting person would like to provide about the matter or how it voted.

SIGNATURE

[See General Instruction D]

Pursuant to the requirements of the [Securities Exchange Act of 1934 (for Institutional Managers)] [Investment Company Act of 1940 (for Funds)], the reporting person has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Reporting Person) _____

By (Signature and Title) * _____

Date _____

* Print the name and title of each signing officer under his or her signature.

By the Commission.

Dated: September 29, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–21549 Filed 10–14–21; 8:45 am]

BILLING CODE 8011–01–C

Reader Aids

Federal Register

Vol. 86, No. 197

Friday, October 15, 2021

CUSTOMER SERVICE AND INFORMATION

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**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

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.

Proposed Rules:
232 57478
240 57478
249 57478
270 57478
274 57478

18 CFR
389 54610

21 CFR
16 55224
73 ..... 55494, 56183
860 54826
878 56195
1100 54300
1107 ..... 55224, 55300
1114 55300

22
41 55692

24 CFR
247 55693
880 55693
882 55693
884 55693
966 55693
Proposed Rules:
203 54876
206 54876

25 CFR
90 54364

26 CFR
1 54367
54 55756
Proposed Rules:
54 55980

28 CFR
2 56645
16 54368

29 CFR
1400 54851
1915 54611
2510 55980
2590 55980
Proposed Rules:
2550 57272

32 CFR
323 54371
507 54615

33 CFR
100 ..... 54620, 55702, 56205
117 54851
165 ..... 54371, 54622, 56205, 56206, 57358
334 56208
Proposed Rules:
100 54879
334 56236

34 CFR
Proposed Rules:
Ch. II L54881, 54883
Ch. VI 54666

37 CFR
1 57035
6 55498

38 CFR
3 56213
17 56646
36 56213
Proposed Rules:
1 55547
3 57084
8 56846
21 ..... 57084, 57094

39 CFR
Proposed Rules:
3050 55548
3055 57385

40 CFR
9 ..... 55116, 55704
52 ..... 54373, 54375, 54377, 54379, 54624, 54626, 54628, 55501, 56838, 57058
70 54379
84 55116
180 ..... 56652, 56653
262 54381
264 54381
265 54381
716 54386
721 55704
Proposed Rules:
52 ..... 54887, 56848, 57388
82 55549
271 54894
721 56664
1502 55757
1507 55757
1508 55757

41 CFR
300–90 54630
300–74 54630
Appendix E to Ch. 301 54630
Proposed Rules:
51 56679
52 56679
53 56679
54 56679

42 CFR
51c 54390
59 56146
412 54631

43 CFR
3000 54636

45 CFR
147 55980
149 55980
670 54396
1304 55509

47 CFR
1 54852
25 54396
27 57369
54 55515
63 54396
64 54871
73 ..... 54396, 54852
74 54852
Proposed Rules:
52 57390
54 57097
64 ..... 54897, 57390
73 ..... 54416, 54417

48 CFR
503 55516
511 55516
512 55516
513 55516
514 55516
515 55516
517 55516
519 55516
522 55516
523 55516
527 55516
528 55516
529 55516
532 55516
536 55516
537 55516
538 55516
539 55516
541 55516
542 55516
543 55516
546 55516
549 55516
552 ..... 55516, 57372
570 55516
802 54402
852 ..... 54402, 54405
853 54402
871 54405
1502 55708
1512 55708
1513 55708
1516 55708
1532 55708
1539 55708
1552 55708
Proposed Rules:
Ch. 1 57404
2 55769
19 55769
52 55769
332 57102
352 57102

49 CFR
Ch. III 57060
382 55718
383 55718
384 55718
390 55718
392 55718
801 54641

50 CFR
10 54642
17 57373
622 ..... 54657, 54871, 54872
635 ..... 54659, 54873
648 ..... 54875, 56657, 57376
660 ..... 54407, 55525
665 55743
Proposed Rules:
17 ..... 55775, 57104
21 54667
217 56857
300 ..... 55560, 55790
648 54903
679 55560
680 55560

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 October 14, 2021

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.