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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 10310 of November 17, 2021**

## Antibiotic Awareness Week, 2021

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

**A Proclamation**

Antibiotic Awareness Week is an occasion to celebrate the miracles of science and medicine that improve and sustain our lives, including innovations in antibiotics that have transformed the treatment of illness. Antibiotics save lives, kill bacteria that cause infections, and make it possible for many modern health care practices—including cancer treatments or surgery—to be safely performed. This week is also an occasion to raise awareness of the dangers of misuse and overuse of antibiotics, which can lead to antibiotic resistance.

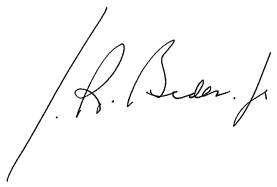
It is critical to the health of our Nation that antibiotics be used only as intended. In recent decades, the misuse of antibiotics has contributed to infectious germs becoming increasingly resistant to antibiotic drugs. Every year, more than 3 million people in the United States are infected—and nearly 50,000 are killed—by an antibiotic-resistant germ or an infection that can occur after taking antibiotics. Because most of these cases occur as a result of improper antibiotic use, it is essential that these drugs are used appropriately and only when necessary. During Antibiotic Awareness Week, we reaffirm our commitment to meet the challenge of antibiotic resistance and preserve the effectiveness of these lifesaving treatments.

My Administration is committed to a strong public health response to antibiotic resistance. We are pursuing the ambitious goals laid out in the National Action Plan for Combating Antibiotic-Resistant Bacteria, building on evidence-based activities that slow the spread of antibiotic resistant infections and striving to scale up tracking of antibiotic use across the country through systems such as the Centers for Disease Control and Prevention's National Healthcare Safety Network. We know the kinds of interventions that work to maintain the integrity of antibiotics and strengthen antibiotic stewardship across industries, and we are implementing those interventions and providing resources to analyze data and address inequities in antibiotic prescribing and use. In addition, we are examining how disparities in health care access and quality of care exacerbate antibiotic-resistant infections.

Every American has a vital role to play in this effort. Even small changes in how we use antibiotics can help defend against the threat of antibiotic resistance. Using the right antibiotic and the correct dosage for the proper duration at the prescribed time can help improve how antibiotics are used to prevent and control infections for all of us. During Antibiotic Awareness Week, we commit to doing our part to take on the threat of antibiotic resistance and pursue strategies that will make all Americans safer and healthier.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 18 through November 24, 2021, as Antibiotic Awareness Week. I call upon the scientific community, medical professionals, educators, businesses, industry leaders, and all Americans to observe this week by promoting the responsible use of antibiotics and raising awareness of the dangers inherent to their misuse and overuse.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of November, 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. 2021–25602
Filed 11–19–21; 8:45 am]
Billing code 3395–F2–P

# Presidential Documents

**Proclamation 10311 of November 17, 2021**

## National Rural Health Day, 2021

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

**A Proclamation**

America's rural communities feed and fuel our country, steward our precious lands, and are home to 1 out of every 5 Americans. As we continue to fight the COVID–19 pandemic and make the investments we need to build back better, we must ensure that our recovery includes and strengthens our Nation's rural communities. On National Rural Health Day, we recommit to supporting the health and well-being of rural Americans and celebrate the rural health care providers who work tirelessly to meet their needs.

Rural Americans face unique challenges accessing the care they need and deserve. They often have to travel greater distances to see a health care provider, are less likely to have access to broadband to utilize telehealth services, and are more likely to live in an area that has a shortage of doctors, dentists, and mental health providers. While the impact of the COVID–19 pandemic has spared no part of the country, rural areas have confronted additional challenges that affect the delivery of services, including limited health care infrastructure and fewer clinicians.

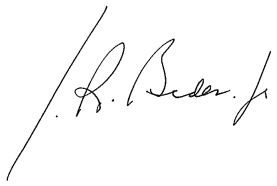
My Administration is committed to improving the health of rural communities and ensuring that those who call these communities home have equitable access to the resources and services routinely available to people living in more densely populated areas. That is why my American Rescue Plan (ARP) is providing $8.5 billion to rural health providers to keep their doors open and continue responding to the COVID–19 pandemic. This builds on over $820 million in ARP spending from earlier this year to support COVID–19 testing and mitigation across 4,200 Rural Health Clinics and over 1,500 small rural hospitals and $100 million in ARP funding to support the vaccine outreach efforts of Rural Health Clinics. My Administration's plan also provided $500 million to create the Emergency Rural Health Care Grant Program, which is helping rural communities provide more COVID–19 testing and treatment, purchase medical supplies, deliver food assistance, and renovate health care facilities. These investments are complemented by funds to expand telehealth and support training for new rural health care providers, including community health workers and respiratory therapists. This funding has supported thousands of Rural Health Clinics, small rural hospitals, and community health workers.

My Administration's Build Back Better framework will build on the successes of the ARP by delivering lower cost, higher quality health care to rural Americans. My Administration's proposal is the biggest expansion of affordable health care in a decade and will lower prescription drug and other health care costs for rural Americans, keep rural hospitals open, and work to address the root causes of poor health, including outdated drinking water infrastructure across rural America. Additionally, my Administration is coordinating efforts across Federal, State, Tribal, territorial, and local governments and incorporating health equity principles, policies, and approaches in our efforts to better support rural communities. This means supporting rural hospitals and clinics, expanding telehealth and workforce development, improving community health, and providing greater access to capital so that every American can receive lower cost and higher quality health care.

On National Rural Health Day, we recognize the importance of the health and well-being of our rural communities. As our Nation builds back better, we recommit to supporting our rural health care providers and working together to bring about a stronger, healthier rural America.

NOW, THERFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 18, 2021, as National Rural Health Day. I call upon the people of the United States to reaffirm our dedication to the health and well-being of rural America.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of November, 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. 2021–25603
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# Rules and Regulations

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

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

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 363

**RIN 3064–AF77**

### Applicability of Annual Independent Audits and Reporting Requirements for Fiscal Years Ending in 2021; Correction

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to the authority citation and regulatory text regarding the applicability of annual independent audits and reporting requirements for fiscal years ending in 2021, which was published in an interim final rule (IFR) on October 23, 2020.

**DATES:** This correcting amendment is effective on November 22, 2021, except for instruction 3, which is effective November 22, 2021 through December 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Harrison E. Greene, Jr., Assistant Chief Accountant, (202) 898–8905, *hgreene@fdic.gov;* Shannon M. Beattie, Section Chief and Deputy Chief Accountant, (202) 898–3952, *sbeattie@fdic.gov;* John Rieger, Chief Accountant, (202) 898–3602, *jrieger@fdic.gov;* Mark G. Flanigan, Senior Counsel, (202) 898–7426, *mflanigan@fdic.gov;* Joyce M. Raidle, Counsel, (202) 898–6763, *jraidle@fdic.gov,* Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (800) 925–4618.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On October 23, 2020, the FDIC issued an IFR allowing insured depository institutions (IDIs) to determine the applicability of part 363 of the FDIC's regulations for fiscal years ending in 2021 based on the lesser of the IDI's (a) consolidated total assets as of December 31, 2019; or (b) consolidated total assets as of the beginning of their fiscal years ending in 2021.

Notwithstanding the temporary relief provided by the IFR, IDIs remain subject to any audit and reporting requirements applicable under other laws and regulations. Also, the FDIC reserves the authority to require an IDI to comply with one or more requirements under part 363 if the FDIC determines that asset growth was related to a merger or acquisition.

### Need for Correction

This correcting amendment makes no change to the relief provided by the IFR originally published, but clarifies the authority citation and revises 12 CFR 363.1 by removing the temporary relief regarding the applicability of annual independent audits and reporting requirements for fiscal years ending in 2021 from paragraph (a) and adding the temporary relief into paragraph (e).

### List of Subjects in 12 CFR Part 363

Accounting, Administrative practice and procedure, Banks, Banking, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the FDIC makes the following correcting amendment to 12 CFR part 363:

## PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

■ 1. The authority citation for part 363 is revised to read as follows:

**Authority:** 12 U.S.C. 1831m.

■ 2. Amend § 363.1 by revising paragraph (a) to read as follows:

**§ 363.1 Scope and definitions.**

(a) *Applicability.* This part applies to any insured depository institution with respect to any fiscal year in which its consolidated total assets as of the beginning of such fiscal year are $500 million or more. The requirements specified in this part are in addition to any other statutory and regulatory requirements otherwise applicable to an insured depository institution.

* * * * *

■ 3. Effective November 22, 2021 through December 31, 2021, further amend § 363.1 by adding paragraph (e) to read as follows:

**§ 363.1 Scope and definitions.**

* * * * *

(e) *Temporary relief.* (1) Notwithstanding paragraph (a) of this section and for all requirements in this part, with respect to any fiscal year ending in 2021, an insured depository institution's consolidated total assets shall be determined based on the lesser of an insured depository institution's consolidated total assets as of December 31, 2019, or an insured depository institution's consolidated total assets as of the beginning of its fiscal year ending in 2021.

(2) Until December 31, 2021, the FDIC reserves the authority to require an insured depository institution to comply with one or more requirements under this part if the FDIC determines that asset growth was related to a merger or acquisition.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on November 16, 2021.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2021–25415 Filed 11–19–21; 8:45 am]

**BILLING CODE 6714–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2021–1008; Project Identifier MCAI–2021–01210–T; Amendment 39–21828; AD 2021–24–07]**

**RIN 2120–AA64**

### Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

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

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR42 airplanes and Model ATR72 airplanes. This AD was prompted by a report of a certain procedure in the aircraft maintenance

manual (AMM) that incorrectly described a visual inspection of the fire handle. This AD requires a general visual inspection of both engine fire handles and applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective November 22, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 22, 2021.

The FAA must receive comments on this AD by January 6, 2022.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1008; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1008; Project Identifier MCAI–2021–01210–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2021–0237–E, dated November 4, 2021 (EASA AD 2021–0237–E) (also referred to as the MCAI), to correct an unsafe condition for certain ATR—GIE Avions de Transport Régional Model ATR42–200, –300, –320, –400, and –500 airplanes and Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes. ATR—GIE Avions de Transport Régional Model ATR42–400 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This AD was prompted by a report that the AMM maintenance procedure ATR–A–26–12–60–00ZZZ–281Z–A ''Scheduled Inspection of the Engine Fire Detection Loops'' incorrectly described a visual inspection of the fire handle. The maintenance procedure specified to verify that the snap wire material attaching the fire handle locking hold-plate was a stainless steel lockwire where it should have specified either an aluminum snap wire or a copper snap wire. If the engine fire handle fails, the flightcrew might not be able to extinguish an engine fire using the engine fire extinguisher system, which is the primary method for extinguishing engine fires. The FAA is issuing this AD to address this condition, which, if not detected and corrected, and combined with an engine fire, could lead to a failure of the engine fire handle to operate, possibly resulting in an uncontrolled engine fire and reduced control of the airplane. See the MCAI for additional background information.

### Related Service Information Under 1 CFR Part 51

EASA AD 2021–0237–E specifies procedures for a general visual inspection of both engine's fire handles for an incorrect snap wire, and applicable corrective actions. Corrective actions include removing the incorrect snap wire, installing the correct snap wire, and installing the safety seal. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this AD after determining that the unsafe condition

described previously is likely to exist or develop on other products of these same type designs.

**Requirements of This AD**

This AD requires accomplishing the actions specified in EASA AD 2021–0237–E described previously, except for any differences identified as exceptions in the regulatory text of this AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021–0237–E is incorporated by reference in this AD. This AD requires compliance with EASA AD 2021–0237–E in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0237–E does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0237–E. Service information required by EASA AD 2021–0237–E for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1008 after this AD is published.

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

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because if the installation of the incorrect snap wire material on the engine's fire handles is not detected and corrected, this condition, combined with an engine fire, could lead to a failure of the engine fire handle to operate, possibly resulting in an uncontrolled engine fire and reduced control of the airplane. In addition, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

**Regulatory Flexibility Act (RFA)**

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

**Costs of Compliance**

The FAA estimates that this AD affects 71 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 1 work-hour × $85 per hour = $85 | $0 | $85 | $6,035 |

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 1 work-hour × $85 per hour = $85 | Negligible | $85 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

responsibilities among the various levels of government.

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

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

(2) Will not affect intrastate aviation in Alaska.

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

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

**The Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2021–24–07 ATR—GIE Avions de Transport Régional:** Amendment 39–21828; Docket No. FAA–2021–1008; Project Identifier MCAI–2021–01210–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 22, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the ATR—GIE Avions de Transport Régional airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) Emergency AD 2021–0237–E, dated November 4, 2021 (EASA AD 2021–0237–E).

(1) Model ATR42–200, –300, –320, and –500 airplanes.

(2) Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 26, Fire protection.

**(e) Unsafe Condition**

This AD was prompted by a report of a certain procedure in the aircraft maintenance manual (AMM) that incorrectly described a visual inspection of the fire handle. The FAA is issuing this AD to address snap wires made of incorrect material, which, if not detected and corrected, and combined with an engine fire, could lead to a failure of the engine fire handle to operate, possibly resulting in an uncontrolled engine fire and reduced control of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0237–E.

**(h) Exceptions to EASA AD 2021–0237–E**

(1) Where EASA AD 2021–0237–E refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0237–E does not apply to this AD.

(3) For this AD, the safety seal installation only may be deferred up to 750 flight hours or 6 months, whichever occurs first, after the effective date of this AD, if the safety seal is not available at the time of the snap wire installation.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2021–0237–E specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Additional AD Provisions**

The following provisions also apply to this AD:

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

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

**(k) Related Information**

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2021–0237–E, dated November 4, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0237–E, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

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

Issued on November 12, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–25494 Filed 11–18–21; 11:15 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1011; Project Identifier MCAI–2021–00867–R; Amendment 39–21830; AD 2021–24–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Bell Textron Canada Limited Helicopters

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

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 430 helicopters. This AD was prompted by an in-flight failure of the main rotor (M/R) pitch link clevis (clevis) due to fatigue damage and excessive wear. This AD requires a visual inspection of the M/R clevis, rod end, and a certain part-numbered universal bearing, performing a purge grease, and performing a magnetic particle inspection of each M/R clevis. Depending on the visual

inspection and magnetic particle inspection results, this AD requires removing certain parts from service, replacing certain parts, and performing additional actions. This AD also requires recurring inspections of each M/R clevis and each universal bearing. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective December 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of December 7, 2021.

The FAA must receive comments on this AD by January 6, 2022.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1011.

**Examining the AD Docket**

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1011; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the Transport Canada AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2021–26, dated July 26, 2021 (Transport Canada AD CF–2021–26), to correct an unsafe condition for Bell Textron Canada Limited Model 430 helicopters, serial numbers 49001 through 49129. Transport Canada advises of an in-flight failure of an M/R clevis which resulted in loss of control of the helicopter and fatal injuries to occupants. Transport Canada further advises that the M/R clevis part number (P/N) 430–010–432–101 fractured at the exposed thread area above the nut, which was consistent with fatigue damage. Transport Canada also advises an inspection of the failed part determined universal bearing P/N 212–010–412–001 of the M/R pitch link assembly had excessive wear and increased resistance to rotation. Transport Canada states a similar accident previously occurred on the same model helicopter in which the M/R clevis was found to have fractured at the neck area due to fatigue damage. Transport Canada states the restriction in freedom of movement of the universal bearing can cause increased loads on the M/R pitch link assembly and subsequent fatigue failure of the M/R clevis prior to its life limit. Finally, Transport Canada advises the accident investigation is still ongoing. This condition, if not addressed, could result in crack initiation at the M/R clevis neck or threaded area and failure of the M/R pitch link, resulting in loss of control of the helicopter.

Accordingly, Transport Canada AD CF–2021–26 requires visually inspecting the M/R clevis and rod end for wear and damage and performing corrective actions. Transport Canada AD CF–2021–26 also requires for certain part-numbered M/R rotor pitch link assemblies that have accumulated 5000 hours air time or less and have a universal bearing P/N 212–010–412–001 that is unserviceable, replacing the universal bearing. Transport Canada AD CF–2021–26 requires for certain part-numbered M/R pitch link assemblies that have accumulated more than 5,000 hours air time and have a universal bearing P/N 212–010–412–001 with signs of binding or stiffness, replacing both the universal bearing and the M/R clevis or if the universal bearing is unserviceable but there are no signs of binding or stiffness, replacing only the universal bearing.

Transport Canada AD CF–2021–26 requires performing a purge grease of each universal bearing and performing a magnetic particle inspection of the M/R clevis to detect cracks, replacing any M/R clevis with cracks, or if the M/R clevis does not have any cracks, replacing any missing cadmium plating.

Additionally, Transport Canada AD CF–2021–26 requires after the initial visual and magnetic particle inspections, performing recurring visual inspections of the M/R clevis for corrosion and mechanical damage and performing corrective actions as needed. Transport Canada AD CF–2021–26 also requires performing recurring visual inspections of the universal bearing for binding, stiffness, wear, damage looseness, excess axial and radial play, and performing corrective actions as needed. Transport Canada AD CF–2021–26 requires reporting any cracks or M/R clevises that are beyond published limits to Bell Product Support Engineering. Transport Canada considers its AD an interim action and states that further AD action may follow.

**FAA's Determination**

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada, its technical representative, has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

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

The FAA reviewed Bell Alert Service Bulletin 430–21–60, dated July 13, 2021. This service information specifies procedures to visually inspect the M/R clevis and rod ends for wear or damage, the M/R clevis for corrosion or mechanical damage and the universal bearings for binding, stiffness, wear, looseness, excess axial and radial play, and damage. This service information also specifies procedures to perform a magnetic particle inspection, and recurring inspections of each M/R clevis and each universal bearing.

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

**AD Requirements**

This AD requires within 25 hours time-in-service (TIS) or 30 days, whichever occurs first after the effective date of this AD, removing and dissembling a certain part-numbered M/R pitch link assembly and visually inspecting a certain part-numbered M/R clevis and rod end for wear, corrosion, and damage, which may be indicated by distortion, bending, a crack, or damaged M/R clevis threads, and removing any affected parts from service before further flight. This AD also requires visually inspecting a certain part-numbered universal bearing for binding, stiffness, wear, looseness, excess axial and radial play, and damage, which may be indicated by distortion, bending, or a crack. If certain discrepancies are found, and a certain part-numbered M/R pitch link assembly that has accumulated 5,000 or less total hours TIS is installed, this AD requires before further flight, removing a certain part-numbered universal bearing from service. If certain discrepancies are found, and a certain part-numbered M/R pitch link assembly that has accumulated more than 5,000 total hours TIS is installed, this AD requires before further flight and depending on the discrepancies, removing a certain part-numbered universal bearing and the M/R clevis from service or removing only the universal bearing from service.

This AD also requires performing a purge grease of each universal bearing and performing a magnetic particle inspection of each M/R clevis for a crack in accordance with the applicable service information. Following the magnetic particle inspection, if there is a crack, this AD requires before further flight, removing each affected M/R clevis from service. If there is no crack, this AD requires performing a selective brush cadmium plating and applying a chromate conversion coating.

This AD requires within 50 hours TIS after completion of the initial inspections required by this AD, and thereafter at intervals not to exceed 50 hours TIS, using a 10X magnifying glass, visually inspecting the neck and threaded area of each M/R clevis for wear, corrosion, and damage, which may be indicated by distortion, bending, a crack, or damaged M/R clevis threads, and depending on the inspection results before further flight, removing the affected part from service and replacing with an airworthy part, and repeating the magnetic particle inspection of each M/R clevis.

Finally, AD requires within 150 hours TIS after the completion of the initial inspections required by this AD, and thereafter at intervals not to exceed 150 hours TIS, repeating the visual inspection of each universal bearing for binding, stiffness, wear, looseness, excess axial and radial play, and damage, and performing a purge grease of each universal bearing.

**Differences Between This AD and Transport Canada AD CF–2021–26**

Transport Canada AD CF–2021–26 specifies compliance times in terms of air time, whereas this AD requires using hours TIS. Where the service information required by Transport Canada AD CF–2021–26 specifies to report any signs of cracking to Bell Product Support Engineering, this AD does not require reporting any information. Transport Canada AD CF–2021–26 specifies replacing any affected part, whereas this AD requires removing the affected part from service and then replacing with an airworthy part.

**Interim Action**

The FAA considers this AD to be an interim action. Once final action has been identified, the FAA might consider further rulemaking.

**Justification for Immediate Adoption and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because if not corrected, the unsafe condition could lead to crack initiation at the M/R clevis neck or threaded area and consequent failure of the M/R pitch link, resulting in loss of control of the helicopter.

In addition, the compliance time for the required actions is within 25 hours TIS or 30 days, whichever occurs first after the effective date of this AD, a shorter time period than the time necessary for the public to comment and for publication of the final rule.

Therefore, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

**Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1011; Project Identifier MCAI–2020–00867–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Regulatory Flexibility Act**

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

**Costs of Compliance**

The FAA estimates that this AD affects 29 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Removing and disassembling each M/R pitch link assembly and inspecting each M/R clevis and rod end takes about 4 work-hours for an estimated cost of $340 per inspection and $9,860 for the U.S. fleet.

Inspecting each universal bearing takes about 4 work-hours for an estimated cost of $340 per inspection and $9,860 for the U.S. fleet.

If required, replacing each universal bearing takes about 4 work-hours for an estimated cost of $340 and parts cost about $1,000 for an estimated cost of $1,340 per replacement.

If required, replacing each universal bearing and each M/R clevis takes about 8 work-hours for an estimated cost of $680 and parts cost about $3,000 for an estimated cost of $3,680 per replacement of both parts.

Performing a purge grease on each universal bearing takes about 0.25 work-hours for an estimated cost of $22 per purge.

Performing a magnetic particle inspection of each M/R clevis takes about 2 work-hours for an estimated cost of $170 per inspection.

Performing a selective brush cadmium plating takes about 4 work-hours for an estimated cost of $340 per helicopter.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

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

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

**The Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2021–24–09 Bell Textron Canada Limited:** Amendment 39–21830; Docket No. FAA–2021–1011; Project Identifier MCAI–2021–00867–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective December 7, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bell Textron Canada Limited Model 430 helicopters, having serial number 49001 through 49129, inclusive, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head.

**(e) Unsafe Condition**

This AD was prompted by an in-flight failure of the main rotor (M/R) pitch link clevis (clevis) due to fatigue damage and excessive wear. The FAA is issuing this AD to detect and address any wear and damage of the M/R clevis neck or threaded area. The unsafe condition, if not addressed, could result in crack initiation at the M/R clevis neck and failure of the M/R pitch link, resulting in loss of control of the helicopter.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 25 hours time-in-service (TIS) or 30 days, whichever occurs first, after the effective date of this AD:

(i) Remove and disassemble each M/R pitch link assembly part number (P/N) 430–010–411–105, or P/N 430–010–411–107, but do not remove the inserts from the tube. Visually inspect the M/R clevis P/N 430–010–432–101 and rod end for wear, corrosion, and damage, which for the purposes of this inspection may be indicated by distortion, bending, a crack, or damaged M/R clevis threads. If there is any wear, corrosion or damage, before further flight, remove the affected M/R clevis or the affected rod end from service.

(ii) Visually inspect each universal bearing P/N 212–010–412–001 for binding, stiffness, wear, looseness, excess axial and radial play, and damage, which for the purposes of this inspection may be indicated by distortion, bending, or a crack.

(A) If there is any wear, looseness, excess axial and radial play, or damage and the M/R pitch link assembly is P/N 430–010–411–105 or P/N 430–010–411–107 and has accumulated 5,000 or less total hours TIS, before further flight, remove the universal bearing P/N 212–010–412–001 from service and replace with an airworthy part.

(B) If there is any binding or stiffness and the M/R pitch link assembly is P/N 430–010–411–105 or P/N 430–010–411–107 and has accumulated more than 5,000 total hours TIS, before further flight, remove the universal bearing P/N 212–010–412–001 and M/R clevis from service and replace with airworthy parts.

(C) If there is any wear, looseness, excess axial and radial play, or damage and the M/R pitch link assembly is P/N 430–010–411–105 or P/N 430–010–411–107 and has accumulated more than 5,000 total hours TIS, before further flight, remove the universal bearing P/N 212–010–412–001 from service and replace with an airworthy part.

(iii) Purge grease the bearings of each universal bearing.

(iv) Perform a magnetic particle inspection for any crack on each M/R clevis by following the Accomplishment Instructions, Part I, paragraphs 8. through 8.d., of Bell Alert Service Bulletin 430–21–60, dated July 13, 2021 (ASB 430–21–60). If there is any crack, before further flight, remove each affected M/R clevis from service. If there is no crack, before further flight, perform a selective brush cadmium plating to replace

any missing cadmium plating and apply a chromate conversion coating.

(2) Within 50 hours TIS after completion of paragraph (g)(1) of this AD, and thereafter at intervals not to exceed 50 hours TIS:

(i) Using a 10X magnifying glass, visually inspect the neck and threaded area of each M/R clevis for wear, corrosion, and damage, which for the purposes of this inspection may be indicated by distortion, bending, a crack, or damaged M/R clevis threads. Refer to Figure 3 of ASB 430–21–60 for a depiction of the area to inspect on each M/R clevis. If there is any wear, corrosion, or damage, before further flight, remove the affected M/R clevis from service and replace with an airworthy part.

(ii) Perform the actions required in paragraph (g)(1)(iv) of this AD for each M/R clevis.

(3) Within 150 hours TIS after the completion of paragraph (g)(1) of this AD, and thereafter at intervals not to exceed 150 hours TIS, visually inspect and purge grease each universal bearing, by performing the actions as required in paragraphs (g)(1)(ii) and (iii) of this AD.

**(h) Special Flight Permits**

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

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

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

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

**(j) Related Information**

(1) For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

(2) The subject of this AD is addressed in Transport Canada CF–2021–26 AD, dated July 26, 2021. You may view the Transport Canada AD at *https://www.regulations.gov* in Docket No. FAA–2021–1011.

**(k) Material Incorporated by Reference**

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

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

(i) Bell Alert Service Bulletin 430–21–60, dated July 13, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.*

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

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

Issued on November 16, 2021.

**Ross Landes,**

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

[FR Doc. 2021–25489 Filed 11–18–21; 11:15 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 89

**[Docket No.: FAA–2019–1100]**

## Policy Statement for the Reported Geometric Altitude of the Control Station of a Standard Remote Identification Unmanned Aircraft

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

**ACTION:** Statement of policy.

**SUMMARY:** This action clarifies FAA policy regarding the existing accuracy requirements for the reported geometric altitude of the control station of a standard remote identification unmanned aircraft. The FAA describes one acceptable way producers of unmanned aircraft can meet the minimum performance requirement for the accuracy of the control station's reported geometric altitude. The FAA determined that this action is necessary to inform developers of means of compliance of one potential pathway to meet the performance requirement for the control station's reported geometric altitude.

**DATES:** The effective date of this policy is November 22, 2021.

**ADDRESSES:** For information on where to obtain copies of this statement of policy and other information related to this statement, see ''Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Paul Siegmund, Policy and Innovation Division, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591; telephone 1–844–FLY–MY–UA (1–844–359–6981); email: *UAShelp@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Overview

*A. Background*

On January 15, 2021, the FAA published a final rule titled ''Remote Identification of Unmanned Aircraft'' (Remote ID final rule) with an original effective date of March 16, 2021.[1] [2] The Remote ID final rule requires the remote identification of unmanned aircraft in the airspace of the United States. Remote identification is the capability of an unmanned aircraft, in flight, to provide certain identification, location, and performance information that people on the ground and other airspace users can receive.

In addition to the operating requirements, the Remote ID final rule provides the design and production requirements for the production of remote identification unmanned aircraft or broadcast modules. These requirements describe the performance standards for remote identification without establishing a specific means or process for regulated entities to follow.[3] A person designing or producing a standard remote identification unmanned aircraft or remote identification broadcast module must show that the unmanned aircraft or broadcast module meets the performance requirements of the rule by following an FAA-accepted means of compliance. A means of compliance submitted to the FAA for acceptance

[1] *Remote Identification of Unmanned Aircraft* final rule, 86 FR 4390 (Jan. 15, 2021).

[2] On March 10, 2021, the FAA published a correction to the Remote ID final rule in accordance with the memorandum titled Regulatory Freeze Pending Review (86 FR 7424, Jan 28, 2021), delaying the final rule's effective date to April 21, 2021 (86 FR 13629).

[3] A standard remote identification unmanned aircraft broadcasts identification, location, and performance information of the unmanned aircraft and control station. This unmanned aircraft broadcasts the remote identification message elements directly from the unmanned aircraft from takeoff to shutdown. A remote identification broadcast module broadcasts identification, location, and take-off information; the broadcast module may be a separate device that is attached to an unmanned aircraft, or a feature built into the aircraft. 86 FR 4391 (Jan. 15, 2021).

must show that an unmanned aircraft or broadcast module produced using it would meet the performance requirements of title 14 of the Code of Federal Regulations part 89 (14 CFR part 89). This policy statement only addresses the performance requirements and compliance path for the standard remote identification unmanned aircraft.

Part 89 requires the following 8 message elements to be broadcast from a standard remote identification unmanned aircraft: (1) Unmanned aircraft unique identifier; (2) an indication of the control station's latitude and longitude; (3) an indication of the control station's altitude; (4) an indication of the unmanned aircraft's latitude and longitude; (5) an indication of the unmanned aircraft's altitude; (6) a time mark; (7) an indication of the emergency status of the unmanned aircraft system; and (8) velocity. Additionally, all standard remote identification unmanned aircraft must meet certain minimum requirements regarding the transmission of the message elements including the minimum performance requirements related to positional accuracy, geometric altitude accuracy, message latency, and message transmission rate. These minimum performance requirements for the message elements are design requirements; any specific test method for ensuring that the unmanned aircraft design meets this accuracy requirement will be reviewed and evaluated by the FAA as a part of the means of compliance acceptance process.

Part 89 establishes the accuracy requirement for the reported geometric altitude for the control station of a standard remote identification unmanned aircraft. Specifically, § 89.310(h)(2) requires that the reported geometric altitude of the control station must be accurate to within 15 feet of the true geometric altitude, with 95 percent probability. The Remote ID final rule did not specify how a means of compliance should address this requirement. In order to guide producers to develop standard remote identification unmanned aircraft that meet the FAA's standards, this policy statement informs developers of one potential means of compliance that would be acceptable to the FAA to demonstrate compliance with meeting the geometric altitude requirement. Persons developing a means of compliance for a standard remote identification unmanned aircraft in accordance with 14 CFR part 89, subpart E, may incorporate the method described in this policy statement as part of their means of compliance. The FAA emphasizes, however, that other ways of demonstrating compliance with § 89.310(h)(2) may be acceptable.

### *B. Statement of Policy: Acceptable Method*

This statement of policy describes one acceptable way, but not the only way, that the accuracy requirements for the reported geometric altitude of the control station of a standard remote identification unmanned aircraft can meet the minimum performance requirement in § 89.310(h)(2). The FAA is not requiring developers of means of compliance to include the specific method provided in this statement of policy.

A means of compliance that requires the unmanned aircraft system (UAS) control station position source to be a global navigation satellite system (GNSS) receiver utilizing Global Positioning System (GPS) and Wide Area Augmentation System (WAAS) satellite signals to determine the geometric altitude of the control station would be an acceptable method for a means of compliance to demonstrate that the unmanned aircraft built according to its specifications would meet the accuracy requirement in § 89.310(h)(2). The WAAS Performance Analysis report from the second quarter of 2021 shows that GNSS receivers utilizing GPS with a satellite-based augmentation system indicates a worst-site 95% vertical accuracy of 5 feet for the continental United States.[4] This report demonstrates that GNSS receivers utilizing GPS/WAAS can achieve the necessary vertical position accuracy across the National Airspace System to meet the reported geometric altitude requirement of § 89.310(h)(2).

The FAA recognizes that UAS technology, which includes remote identification technology, is continually evolving and improving. Accordingly, the FAA expects that other methods may be available to meet this requirement other than the one mentioned in this policy statement, and nothing about this statement should preclude developers of means of compliance from including other technological methods of meeting the vertical accuracy requirements for the reported geometric altitude of the control station. This statement of policy solely addresses one method of demonstrating compliance with § 89.310(h)(2); note that any means of compliance submitted to the FAA must also adequately address the other requirements in part 89, subparts D and E, in order to be accepted by the FAA.

[4] *https://www.nstb.tc.faa.gov/DisplayArchive.htm.*

## II. Additional Information

### *A. Electronic Access and Filing*

A copy of the Remote ID final rule as well as all background materials may be viewed online at *https://www.regulations.gov* using the docket number listed above. A copy of this statement of policy will also be placed in the docket for that rule. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *https://www.FederalRegister.gov* and the Government Publishing Office's website at *https://www.GovInfo.gov.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Requestors must identify the docket or amendment number of this rulemaking.

### *B. Integration of This Policy Into FAA Orders and Publications*

As appropriate, the FAA will incorporate this policy into applicable FAA Orders and publications, such as Advisory Circulars, as they are updated. The agency will also continually review this policy in the interest of aviation safety. The FAA reserves the right to update this policy if the agency collects or receives additional information.

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

Issued in Washington, DC, on or about November 16, 2021.

**Michael C. Romanowski,**

*Aviation Safety Director, Policy and Innovation, Aircraft Certification Service.*

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**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**DEPARTMENT OF THE TREASURY**

**19 CFR Part 12**

**[CBP Dec. 21–16]**

**RIN 1515–AE68**

## Extension and Amendment of Import Restrictions Imposed on Archaeological and Ethnological Material of Greece

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (CBP) Regulations to reflect an extension and amendment of import restrictions on certain archaeological and ecclesiastical ethnological material of the Hellenic Republic (Greece). The restrictions, which were originally imposed by CBP Dec. 11–25 and last extended in CBP Dec. 16–21, are due to expire on November 21, 2021. The Acting Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determinations for extending the import restrictions that previously existed, and the Government of the United States and the Government of Greece entered into a new agreement to reflect the extension of these import restrictions. The new agreement, which enters into force on November 21, 2021, supersedes the existing Memorandum of Understanding (MOU) that became effective on November 21, 2016, and enabled the promulgation of the existing import restrictions. Accordingly, the import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this extension until November 21, 2026. To fulfill the terms of the new MOU, the Designated List of cultural property, which was described in CBP Dec. 11–25, is amended in this document to correct certain typographical errors, to add certain coins from the Byzantine and Medieval periods, to clarify pottery styles, and to include post-Byzantine ethnological material dating up to A.D. 1830.

**DATES:** Effective November 21, 2021.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, W. Richmond Beevers, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0084, *ototrrculturalproperty@cbp.dhs.gov.* For operational aspects, Julie L. Stoeber, Chief, 1USG Branch, Trade Policy and Programs, Office of Trade, (202) 945–7064, *1USGBranch@cbp.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

Pursuant to the Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et seq.* (hereinafter, ''the Cultural Property Implementation Act''), which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, ''the Convention'' (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with Greece on November 21, 2011. The Memorandum of Understanding (MOU) enabled the promulgation of import restrictions on archaeological material representing Greece's cultural heritage from the Upper Paleolithic (beginning approximately 20,000 B.C.) through the 15th century A.D., and ecclesiastical ethnological material representing Greece's Byzantine cultural heritage (approximately the 4th century through the 15th century A.D.).

On December 1, 2011, U.S. Customs and Border Protection (CBP) published CBP Dec. 11–25, in the **Federal Register** (76 FR 74691), which amended 19 CFR 12.104g(a) to indicate the imposition of these restrictions and included a list designating the types of archaeological and ecclesiastical ethnological material covered by the restrictions. The restrictions were subsequently extended in 2016. CBP published a final rule (CBP Dec. 16–21) in the **Federal Register** (81 FR 84458), following the exchange of diplomatic notes, extending the import restrictions for a period of five years until November 21, 2021.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. Since the initial notice was published on December 1, 2011, the import restrictions have been extended once. Following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 16–21) in the **Federal Register** (81 FR 84458), to extend the import restrictions for a period of five years to November 21, 2021.

On August 20, 2020, the United States Department of State proposed in the **Federal Register** (85 FR 51544), to extend the MOU between the United States and Greece concerning the import restrictions on certain categories of archeological and ecclesiastical ethnological material of Greece. On March 21, 2021, the Acting Assistant Secretary for Educational and Cultural Affairs, Department of State, after consultation with and recommendations by the Cultural Property Advisory Committee, determined that the cultural heritage of Greece continues to be in jeopardy from pillage of certain archaeological and ecclesiastical ethnological material, and that the import restrictions should be extended for an additional five years.

Subsequently, on September 22, 2021, the Governments of the United States and Greece entered into a new agreement, titled ''Memorandum of Understanding between the Government of the United States of America and the Government of the Hellenic Republic Concerning the Imposition of Import Restrictions on Categories of Certain Archaeological and Ethnological Materials of the Hellenic Republic,'' which is effective on November 21, 2021. The new MOU supersedes the existing MOU that first entered into force on November 21, 2011. Pursuant to the new MOU, the import restrictions will remain in effect for an additional five years.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The restrictions are to continue in effect until November 21, 2026. Importation of such material of Greece, as described in the Designated List below, shall be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: *https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions* by selecting the material for ''Greece.''

### Designated List of Archaeological and Ecclesiastical Ethnological Material of Greece

The Designated List contained in CBP Dec. 11–25, which describes the types of articles to which the import restrictions apply, is amended to reflect the addition of certain archaeological and ecclesiastical ethnological material to the Designated List. To fulfill the terms

of the new MOU, the Designated List of cultural property is amended in this document to add certain coins from the Byzantine and Medieval periods, to clarify pottery styles, and to include post-Byzantine ethnological material dating up to A.D. 1830, as well as clarify certain provisions of the Designated List contained in CBP Dec. 11–25 by making minor revisions to the language, organization, and numbering of the Designated List. For the reader's convenience, CBP is reproducing the Designated List contained in CBP Dec. 11–25 in its entirety, with the changes, below.

The Designated List includes archaeological material from Greece ranging in date from approximately the 3rd millennium B.C. to 15th century A.D., and ecclesiastical ethnological material from Greece from the Early Christian, Byzantine, and post-Byzantine periods, including objects made from A.D. 324 through 1830.

**Categories of Archaeological and Ethnological Ecclesiastical Material**



**I. Archaeological Material**

The archaeological materials represent the following periods, styles, and cultures: Upper Paleolithic, Neolithic, Minoan, Cycladic, Helladic, Mycenaean, Submycenaean, Geometric, Orientalizing, Archaic, Classical, Hellenistic, Roman, Byzantine, and Medieval.

*A. Stone*

1. Sculpture

a. Architectural Elements—In marble, limestone, gypsum, and other kinds of stone. Types include acroteria, antefixes, architrave, base, basin, capital, caryatid, coffer, column, crowning, fountain, frieze, pediment, pilaster, mask, metope, mosaic and inlay, jamb, tile, triglyph, tympanum, wellhead, revetment, cut stone paving, tiles. Approximate date: 3rd millennium B.C. to 15th century A.D.

b. Monuments—In marble, limestone, and other kinds of stone. Types include menhir, ''horns of consecration,'' votive statues, funerary and votive stelae, and bases and base revetments, and columnar grave monuments. These may be painted, carved with relief sculpture, and/or carry dedicatory or funerary inscriptions. Approximate date: 3rd millennium B.C. to 15th century A.D.

c. Sarcophagi—In marble, limestone, and other kinds of stone. Some have figural scenes painted on them, others have figural scenes carved in relief, and some just have decorative moldings. Approximate date: 3rd millennium B.C. to 15th century A.D.

d. Large Statuary—Primarily in marble, also in limestone and sandstone, including fragments of statues. Subject matter includes human and animal figures and groups of figures in the round. Common types are largescale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). The style may be naturalistic, as in the Classical Period, highly stylized, as in the Bronze Age culture of the Cyclades, or somewhere in between. Approximate date: 4th millennium B.C. to 15th century A.D.

e. Small Statuary and Figurines—In marble and other stone. Subject matter includes human and animal figures and groups of figures in the round. These range from approximately 10 cm to 1 m in height. The style may be naturalistic, as in the Classical Period, highly stylized, as in the Bronze Age culture of the Cyclades, or somewhere in between. Approximate date: 20,000 B.C. to 15th century A.D.

f. Reliefs—In marble and other stone. Types include carved slabs with figural, vegetative, floral, or decorative motifs, sometimes inscribed, and carved relief vases. Used for architectural decoration, funerary, votive, or commemorative monuments. Approximate date: 3rd millennium B.C. to 15th century A.D.

g. Furniture—In marble and other stone. Types include tables; thrones; beds; and altars, round or rectangular. Approximate date: 12th century B.C. to 15th century A.D.

2. Vessels—In marble, steatite, rock crystal, and other stone. These may belong to conventional shapes such as bowls, cups, jars, jugs, and lamps, or may occur in the shape of an animal or human, or part of an animal or human. Approximate date: 7th millennium B.C. to 15th century A.D.

3. Tools and Weapons—In flint/chert, obsidian, and other hard stones. Chipped stone types include blades, small blades, borers, scrapers, sickles, cores, arrow heads, and spindle whorls. Ground stone types include grinders (*e.g.,* mortars, pestles, millstones, whetstones), choppers, axes, hammers, and mace heads. Approximate date: 20,000 B.C. to 15th century A.D.

4. Seals and Beads—In marble, limestone, and various semiprecious stones including rock crystal, amethyst, jasper, agate, steatite, and carnelian. Approximate date: 6th millennium B.C. to 15th century A.D.

*B. Metal*

1. Sculpture

a. Large Statuary—Primarily in bronze, including fragments of statues. Subject matter includes human and animal figures and groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). Approximate date: 2nd millennium B.C. to A.D. 324.

b. Small Statuary and Figurines—Subject matter includes human and animal figures, groups of figures in the round, masks, and plaques. These range from approximately 10 cm to 1 m in height. Approximate date: 3rd millennium B.C. to A.D. 324.

c. Inscribed or Decorated Sheet Metal—In bronze, lead, and gold. Engraved inscriptions, ''curse tablets,'' ''Orphic/Dionysiac tablets,'' and thin metal sheets with engraved or impressed designs often used as attachments to furniture and clothing. Approximate date: 4th millennium B.C. to 15th century A.D.

2. Vessels—In bronze, gold, and silver. These may belong to conventional shapes such as bowls, cups, jars, jugs, strainers, cauldrons, and lamps, or may occur in the shape of an animal or part of an animal. Approximate date: 5th millennium B.C. to 15th century A.D.

3. Personal Ornaments—In bronze, gold, and silver. Types include rings, beads, pendants, belts, belt buckles, earrings, diadems, spangles, straight and safety pins (fibulae), necklaces, mirrors, wreaths, cuffs, and funerary masks. Approximate date: 7th millennium B.C. to 15th century A.D.

4. Tools—In copper, bronze, iron, and lead. Types include hooks, weights, axes, scrapers, (strigils), trowels, keys; the tools of craftspersons such as carpenters, masons and metal smiths; and medical tools such as needles, spoons, lancets, and forceps. Approximate date: 4th millennium B.C. to 15th century A.D.

5. Weapons and Armor—In copper, bronze, iron and lead. Types include

both launching weapons (spears and javelins) and weapons for hand-to-hand combat (swords, daggers, etc.). Armor includes body armor, such as helmets, cuirasses, shin guards, and shields, and horse armor often decorated with elaborate engraved, embossed, or perforated designs. Approximate date: 6th millennium B.C. to 30 B.C.

6. Seals and Tokens—In lead, tin, copper, bronze, silver, and gold. Types include rings, amulets, and seals with shank. Approximate date: 4th millennium B.C. to 15th century A.D.

7. Coins—Many of the mints of the listed coins can be found in B.V. Head, *Historia Numorum: A Manual of Greek Numismatics* (London, 1911) and C.M. Kraay, *Archaic and Classical Greek Coins* (London, 1976). Many of the Roman provincial mints in Greece are listed in A. Burnett *et al., Roman Provincial Coinage I: From the Death of Caesar to the Death of Vitellius (44 BC–AD 69)* (London, 1992) and id., *Roman Provincial Coinage II: From Vespasian to Domitian (AD 69–96)* (London, 1999).

a. Greek Bronze Coins—Struck by city-states, leagues, and kingdoms that operated in the territory of the modern Greek state (including the ancient territories of the Peloponnese, Central Greece, Thessaly, Epirus, Crete and those parts of the territories of ancient Macedonia, Thrace and the Aegean islands that lay within the boundaries of the modern Greek state). Approximate date: 5th century B.C. to late 1st century B.C.

b. Greek Silver Coins—This category includes the small denomination coins of the city-states of Aegina, Athens, and Corinth, and the Kingdom of Macedonia under Philip II and Alexander the Great. Such coins weigh less than approximately 10 grams and are known as obols, diobols, triobols, hemidrachms, and drachms. Also included are all denominations of coins struck by the other city-states, leagues, and kingdoms that operated in the territory of the modern Greek state (including the ancient territories of the Peloponnese, Central Greece, Thessaly, Epirus, Crete, and those parts of the territories of ancient Macedonia, Thrace and the Aegean islands that lie within the boundaries of the modern Greek state). Approximate date: 6th century B.C. to late 1st century B.C.

c. *Roman Coins Struck in Greece*—In silver and bronze, struck at Roman and Roman provincial mints that operated in the territory of the modern Greek state (including the ancient territories of the Peloponnese, Central Greece, Thessaly, Epirus, Crete, and those parts of the territories of ancient Macedonia, Thrace and the Aegean islands that lie within the boundaries of the modern Greek state). Approximate date: late 2nd century B.C. to 3rd century A.D.

d. *Coins from the Byzantine and Medieval Periods* —This category includes coin types such as those of the Byzantine and medieval Frankish and Venetian states that circulated primarily in Greece, ranging in date from approximately the 3rd century A.D. to the 15th century A.D.

*C. Ceramic*

1. Sculpture

a. Architectural Elements—Baked clay (terracotta) elements used to decorate buildings. Elements include acroteria, antefixes, painted and relief plaques, metopes, cornices, roof tiles, revetments, and brick. Approximate date: 3rd millennium B.C. to 30 B.C.

b. Large Statuary—Subject matter includes human and animal figures and groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). Approximate date: 3rd millennium B.C. to 30 B.C.

c. Small Statuary—Subject matter is varied and includes human and animal figures, human body parts, groups of figures in the round, shrines, houses, and chariots. Includes Mycenaean and later Tanagra figurines. These range from approximately 10 cm to 1 m in height. Approximate date: 7th millennium B.C. to A.D. 324.

d. *Sarcophagi*—Block- or tub-shaped chests, often painted, known as *larnax (plural, larnakes).* Approximate date: 3rd millennium B.C. to 30 B.C.

2. Vessels

a. Neolithic Pottery—Handmade, often decorated with a lustrous burnish, decorated with appliqué and/or incision, sometimes with added paint. These come in a variety of shapes from simple bowls and vases with three or four legs to handled scoops and large storage jars. Approximate date: 7th millennium B.C. to 3rd millennium B.C.

b. Minoan, Cycladic, and Mycenaean Pottery—Handmade and wheelmade pottery in shapes for tableware, serving, storing, and processing, with lustrous burnished, matte, appliqué, incised, and painted decoration; includes local styles such as Kamares ware, Pictorial Style, and extraordinary shapes such as ''frying pans'' and ''kernoi.'' Approximate dates: 4th millennium B.C. to 12th century B.C.

c. ''Submycenean'' and Pottery of the Geometric Period (including ''sub-Geometric'')— Handmade and wheelmade pottery that succeeds the styles of the Late Bronze Age and is produced in decorated and undecorated styles, often reflecting that of the Late Bronze Age but predominately using compasses for circles and linear ''geometric'' decoration, as well as schematic representations of humans, animals and birds. This category also includes Proto-Attic Black and White style pottery. Approximate dates: 12th century B.C. to 7th century B.C.

d. Attic Black Glaze, Black Figure, Red Figure and White Ground Pottery—These are made in a specific set of shapes (*e.g.,* amphorae, kraters, hydriae, oinochoi, kylikes) decorated with black painted figures on a clear clay ground (Black Figure), decorative elements in reserve with background fired black (Red Figure), and multi-colored figures painted on a white ground (White Ground). Approximate date: 6th century B.C. to 4th century B.C.

e. Corinthian Pottery—Painted pottery made in Corinth in a specific range of shapes for perfume and unguents and for drinking or pouring liquids. The very characteristic painted and incised designs depict human and animal figural scenes, rows of animals, and floral decoration. Approximate date: 8th century B.C. to 6th century B.C.

f. West Slope Ware—This ware is named after a type of pottery from the west slope of the Athenian Acropolis. It has a black-glaze with relief and polychrome decoration and was produced first in Athens in the fourth century B.C., but the style is also manufactured elsewhere, such as at Corinth, Macedonia and Crete down to the first century B.C. Approximate date: 4th century B.C. to 1st century B.C.

g. Moldmade Bowls—These bowls with relief decoration were developed in Athens in the late third century B.C. and soon manufactured elsewhere, such as in Corinth and Argos. Patterns include pine-cone scales, leaves, petals, or figural scenes. They have black glaze, often with a metallic sheen. Approximate date: 3rd century B.C. to 1st century B.C.

h. Utilitarian Ware—Includes undecorated plates, cooking pots, water jars (plain and incised), plain perfume jars (unguentaria), and transport amphorae (often with stamped handles). Approximate date: 6th century B.C. to A.D. 324.

i. Byzantine Pottery—Includes undecorated plain wares, utilitarian, tableware, serving and storage jars, special shapes such as pilgrim flasks, and can be matte painted or glazed, including incised ''sgraffitto'' and stamped with elaborate polychrome decorations using floral, geometric, human, and animal motifs; it is generally locally manufactured, though

places like Corinth were major producers. Approximate date: 324 A.D. to 15th century A.D.

3. Inscriptions—These are typically unbaked and should be handled with extreme care, even when hard-fired through accidental burning. They typically take the form of tablets shaped like leaves of rectangular or square shape and they are often lined, with incised, and sometimes stamped, characters known as ''Linear A'' and ''Linear B.'' Approximate date: 2nd millennium B.C. to 12th century B.C.

4. Lamps—Can be handmade, wheelmade, or moldmade. Shapes include open with a pinched nozzle, partially enclosed with a rim, or covered with a decorated disc. Athens and Corinth were major producers. Approximate date: 7th century B.C. to A.D. 324.

5. Loom Weights—Shapes include conical, pyramidal, disc or rings. Can be stamped, incised, or glazed. Approximate date: 7th millennium B.C. to 15th century A.D.

*D. Bone, Ivory, Wood and Other Organics*

1. Small Statuary and Figurines—Subject matter includes human and animal figures and groups of figures in the round. These range from approximately 10 cm to 1 m in height. Approximate date: 7th millennium B.C. to 15th century A.D.

2. Personal Ornaments—In bone, ivory, and spondylus shell. Types include amulets, combs, pins, spoons, small containers, bracelets, buckles, and beads. Approximate date: 7th millennium B.C. to 15th century A.D.

3. Seals and Stamps—Small devices with at least one side engraved with a design for stamping or sealing; they can be discoid, cuboid, conoid, or in the shape of animals or fantastic creatures (*e.g.,* a scarab). Approximate date: 7th millennium B.C. to 2nd millennium B.C.

4. Musical Instruments—In bone, ivory and tortoise shell. Types include pipe and flute. Approximate date: 3rd millennium B.C. to 15th century A.D.

5. Ostrich Egg Vessels—Often decorated with an incised scene (*e.g.,* geometric, animal, human, etc.). Approximate date: 3rd millennium B.C. to 2nd millennium B.C.

6. Furniture—Bone and ivory furniture inlays and veneers. Approximate date: 2nd millennium B.C. to 15th century A.D.

*E. Glass and Faience*

1. Vessels—Shapes include small jars, bowls, animal shaped, goblet, spherical, candle holders, perfume jars (unguentaria). Approximate date: 2nd millennium B.C. to 15th century A.D.

2. Beads—Globular and relief beads. Approximate date: beginning in 2nd millennium B.C.

3. Small Statuary—Includes human and animal figures in the round, scarabs, and other imitations of eastern themes. These range from approximately 3 to 20 cm in height. Approximate date: 2nd millennium to 7th century B.C.

*F. Textiles*

Clothing or fragments of clothing or carpets or cloth for hanging. Approximate date: 1100 B.C. to 15th century A.D.

*G. Papyrus Documents*

Documents made from papyrus and written upon in ink; these are often rolled, fragmentary, and should be handled with extreme care. Approximately 7th century B.C. to A.D. 324.

*H. Paintings*

1. Domestic and Public Wall Painting—These are painted on mudplaster, lime plaster (wet—buon fresco—and dry—secco fresco); types include simple applied color, bands and borders, landscapes, scenes of people and/or animals in natural or built settings. Approximate date: 3rd millennium B.C. to A.D. 324.

2. Tomb Paintings—Paintings on plaster or stone, sometimes geometric or floral but usually depicting gods, goddesses, or funerary scenes. Approximate date: 2nd millennium B.C. to A.D. 500.

3. Panel Paintings on wood depicting gods, goddesses, or funerary scenes. Approximate date: 1st millennium B.C. to A.D. 324.

*I. Mosaics*

Floor mosaics including landscapes, scenes of humans or gods, and activities such as hunting and fishing. They are made from stone, tile, or glass cut into small bits (tesserae) and laid into a plaster matrix. There may also be vegetative, floral, or decorative motifs. Approximate date: 5th century B.C. to A.D. 500.

**II. Ecclesiastical Ethnological Material**

The ecclesiastical ethnological materials represent the Early Christian and Byzantine, and post-Byzantine periods and include objects made from A.D. 324 through 1830.

*A. Stone*

1. Architectural Elements—In marble and other stone, including upright ''closure'' slabs, circular marking slabs *omphalion,* which may be decorated with crosses, human, or animal figures.

2. Monuments—In marble and other stone; types such as funerary inscriptions.

3. Vessels—Containers for holy water.

4. Reliefs—In marble and other stone, used for architectural decoration. May be carved as icons in which religious figures predominate in the figural decoration.

5. Furniture—In marble and other stone. Types include thrones and altars.

*B. Metal*

1. Reliefs—Cast as icons in which religious figures predominate in the figural decoration.

2. Boxes—Containers of gold and silver, used as reliquaries for sacred human remains. Carved and engraved decoration includes religious figures, scenes from the Bible, floral and geometric designs.

3. Vessels—Containers of lead, which carried aromatic oils and are called ''pilgrim flasks.''

4. Ceremonial paraphernalia—In bronze, silver, and gold including asterisks, censers (incense burners), communion chalices and disks, book covers, lances, liturgical items like ciborium (*artophorion*), book covers, benediction or processional crosses, bishop's crowns, buckles, and chests. These are often decorated with molded or incised geometric motifs or scenes from the Bible, inscriptions in Greek, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Ecclesiastical treasure may include all of the above, as well as rings, earrings, and necklaces (some decorated with ecclesiastical themes) and other implements (*e.g.,* spoons).

*C. Ceramic*

Vessels which carried aromatic oils and are called ''pilgrim flasks.''

*D. Bone and Ivory Objects*

Ceremonial paraphernalia including boxes, reliquaries (and their contents), plaques, pendants, candelabra, stamp rings, crosses. Carved and engraved decoration includes religious figures, scenes from the Bible, and floral and geometric designs.

*E. Wood*

Wooden objects include architectural elements such as painted wood screens (iconostasis) and *lypira;* carved doors, crosses, painted wooden beams from churches or monasteries, and monastery seals; furniture such as thrones, pulpit bases (*proskinitaria*), lecturns

(*analogia*); chests, and other objects, including musical instruments. Religious figures predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs and/or inlaid with glass or other material.

*F. Glass*

Vessels of glass include lamps, candle sticks, and other ritual vessels.

*G. Textile*

Ecclesiastical garments and other ritual textiles, including robes, vestments (*sakkos, phelonion, omophorion, epitrachelion, epigonation*), and altar clothes. They are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and figures, floral, and geometric designs.

*H. Parchment and Paper*

Documents such as illuminated manuscripts occur in single leaves or bound as a book or ''codex'' and are written or painted on animal skins (cattle, sheep/goat, camel) known as parchment. Illuminated manuscripts, printed books used for religious/ritual purposes, and icons may also be printed on paper in the post-Byzantine period.

*I. Paintings*

1. Wall paintings—On various kinds of plaster and which generally portray religious images and scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs, including borders and bands.

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

*J. Mosaics*

Wall mosaics generally portray religious images and scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs. They are made from stone and glass cut into small bits (tesserae) and laid into a plaster matrix.

**Inapplicability of Notice and Delayed Effective Date**

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

**Regulatory Flexibility Act**

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

**Executive Order 12866**

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

**Signing Authority**

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

Troy A. Miller, Acting Commissioner, U.S. Customs and Border Protection, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

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

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

**Amendment to CBP Regulations**

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

## PART 12—SPECIAL CLASSES OF MERCHANDISE

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

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

* * * * *

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

* * * * *

■ 2. In § 12.104g, the table in paragraph (a) is amended by revising the entry for Greece (Hellenic Republic) to read as follows:

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

(a) * * *

| State party | Cultural property | Decision No. |
|---|---|---|
| * | * * * * * * | * |
| Greece (Hellenic Republic) | Archeological materials representing Greece's cultural heritage ranging in date from approximately 3rd millennium B.C. to 15th century A.D., and ecclesiastical ethnological material from Greece from the early Christian, Byzantine, and post-Byzantine periods, including objects made from A.D. 324 through 1830. | CBP Dec. 21–16. |
| * | * * * * * * | * |

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**Robert F. Altneu,**

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

Approved: November 17, 2021.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 2021–25384 Filed 11–19–21; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 866

**[Docket No. FDA–2020–N–1088]**

## Microbiology Devices; Reclassification of Nucleic Acid-Based Hepatitis C Virus Ribonucleic Acid Assay Devices, Renamed to Nucleic Acid-Based Hepatitis C Virus Ribonucleic Acid Tests

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final amendment; final order.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is issuing a final order to reclassify nucleic acid-based hepatitis C virus (HCV) ribonucleic acid (RNA) devices intended for the qualitative or quantitative detection or genotyping of HCV RNA, postamendments class III devices (product codes MZP and OBF), into class II (general controls and special controls), subject to premarket notification. FDA is renaming and codifying these devices under the classification regulation named ''nucleic acid-based hepatitis C virus (HCV) ribonucleic acid tests.'' FDA is also identifying the special controls that the Agency believes are necessary to provide a reasonable assurance of safety and effectiveness of these devices.

**DATES:** This order is effective December 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Silke Schlottmann, Division of Microbiology Devices, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3258, Silver Spring, MD 20993–0002, 301–796–9551, *Silke.Schlottmann@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three classes of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three classes of devices are class I (general controls), class II (general and special controls), and class III (general controls and premarket approval).

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until: (1) FDA reclassifies the device into class I or II or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. FDA determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807, subpart E (21 CFR part 807, subpart E).

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) of the FD&C Act provides that FDA, acting by administrative order, can reclassify the device into class I or II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide a reasonable assurance of the safety and effectiveness of the device for its intended use.

FDA relies upon ''valid scientific evidence,'' as defined in section 513(a)(3) of the FD&C Act and 21 CFR 860.7(c)(2), in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available (see section 520(c) of the FD&C Act (21 U.S.C. 360j(c))). Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending premarket approval application (PMA) (see section 520(c) of the FD&C Act).

FDA published a proposed order in the **Federal Register** of April 2, 2020 (85 FR 18483), to reclassify nucleic acid-based HCV RNA devices intended for the qualitative or quantitative detection or genotyping of HCV RNA, postamendment class III devices, into class II (general controls and special controls), subject to premarket notification. FDA has considered the information available to the Agency, including the deliberations of the March 22, 2018, Microbiology Devices Panel (2018 Panel), and comments from the public docket and has determined that there is sufficient information to establish special controls to effectively mitigate the risks to health identified in section V of the proposed order, and that these special controls, together with general controls, provide a reasonable assurance of safety and effectiveness when applied to nucleic acid-based HCV RNA devices intended for the qualitative or quantitative detection or genotyping of HCV RNA.

Therefore, in accordance with section 513(f)(3) of the FD&C Act, FDA, on its own initiative, is issuing this final order to reclassify nucleic acid-based HCV RNA devices intended for the qualitative or quantitative detection or genotyping of HCV RNA from class III to class II (general and special controls).[1]

## II. Comments on the Proposed Order

On April 2, 2020, FDA published in the **Federal Register** a proposed order to reclassify nucleic acid-based HCV RNA devices intended for the qualitative or quantitative detection or genotyping of HCV RNA from class III to class II, subject to premarket notification. The comment period on the proposed order closed on June 1, 2020. In response to the proposed order, FDA received comments from industry, healthcare associations, public health departments, and individual consumers by the close of the comment period, some of which contained one or more comments on one or more issues. We describe and respond to the comments in this section of the document. Certain comments are grouped based on common themes; we grouped similar comments together under the same number and listed them numerically.

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of **Federal Register**'s (OFR) interpretation of the **Federal Register** Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22) and the Document Drafting Handbook.

The order of response to the commenters is purely for organizational purposes and does not signify the comment's value or importance nor the order in which comments were received. Please note that in some cases we separated different issues discussed by the same commenter and designated them as distinct comments for purposes of our responses.

(Comment 1) FDA received numerous comments in favor of the proposed reclassification of nucleic acid-based HCV RNA devices intended for the qualitative or quantitative detection or genotyping of HCV RNA from class III to class II with special controls. Commenters stated they believed that special controls, along with general controls, could provide a reasonable assurance of the safety and effectiveness of these devices. In addition, they believed that the decreased regulatory burden resulting from the reclassification could encourage further development of, and provide patients more timely access to, these devices. Overall, there was a general consensus among the commenters that the proposed special controls are necessary and sufficient to mitigate the risks to health of patients presented by these devices and to provide reasonable assurance of the safety and effectiveness of these devices.

(Response 1) Based on the evidence considered, comments received in response to the proposed order, and deliberations of the 2018 Panel, FDA agrees with the commenters that reclassification of nucleic acid-based HCV RNA devices for the qualitative or quantitative detection or genotyping of HCV RNA from class III into class II and that special controls, in addition to general controls, can provide a reasonable assurance of the safety and effectiveness of these devices. In addition, FDA expects that the reclassification of these devices would enable more manufacturers to develop them such that patients would benefit from increased access to safe and effective tests.

(Comment 2) One comment objected to the proposed reclassification of these devices from class III into class II on the basis that the commenter was not provided adequate notification of the proposed reclassification.

(Response 2) FDA disagrees with this comment as FDA provided notice of our proposed reclassification of these devices with the publication of the proposed order in the **Federal Register** on April 2, 2020, in accordance with section 513(f)(3) of the FD&C Act and 21 CFR part 860. In addition, as discussed further in the proposed order, a public meeting of the 2018 Panel was held where FDA discussed the possible reclassification of nucleic acid-based HCV RNA tests and the Panel members agreed unanimously with the proposal.

(Comment 3) Several commenters had questions about the scope of the proposed reclassification order. Several commenters noted that the proposed reclassification order identified these devices as nucleic-acid based HCV RNA tests for prescription use and suggested that the reclassification order should also include tests intended for over-the-counter (OTC) use. In addition, one commenter suggested that FDA's reclassification order should also include HCV antigen tests, tests for hepatitis A and hepatitis B, and also that the reclassification should include other specimen types for nucleic acid-based HCV RNA tests beyond those identified in the proposed order (*e.g.,* urine or saliva).

(Response 3) These comments are beyond the scope of FDA's proposed reclassification order, which applies only to nucleic acid-based HCV RNA tests that have been previously approved by FDA. FDA has not approved any nucleic acid-based HCV RNA tests intended for OTC use, and FDA believes that a nucleic acid-based HCV RNA test intended for OTC use would be a new type of device not previously classified based on the criteria at section 513(a)(1) of the FD&C Act and, as a result, such postamendments device would be automatically classified into class III by operation of section 513(f)(1) of the FD&C Act.

Similarly, to date, FDA has only approved nucleic acid-based HCV RNA tests intended for use with human serum or plasma, and new specimen types are beyond the scope of FDA's proposed reclassification order.

(Comment 4) Several commenters expressed support of FDA's proposal to rename these devices from ''nucleic acid-based hepatitis C virus (HCV) ribonucleic acid (RNA) assay devices'' to ''nucleic acid-based hepatitis C virus (HCV) ribonucleic acid (RNA) tests.'' These commenters believed that the new name for these devices made clear that these are diagnostic tests and is consistent with the naming of similar diagnostic devices.

(Response 4) FDA believes that the new identification name of these devices—''nucleic acid-based hepatitis C virus (HCV) ribonucleic acid (RNA) tests''—is both understandable to consumers and industry and is consistent with the naming of similar diagnostic devices and agrees with these commenters. As discussed further below in section III, FDA on its own initiative has revised the device identification of nucleic-acid based HCV RNA to be codified in § 866.3170(a) (21 CFR 866.3170(a)).

(Comment 5) One commenter suggested that the proposed special control requiring cross-reactivity studies may not be necessary and suggested instead that interfering substance studies be conducted according to ''CLSI–EP–7–A2: Interference Testing in Clinical Chemistry: Approved Guideline—Second Edition'' (Ref. 1).

(Response 5) FDA disagrees with this comment and believes that the special control requiring cross-reactivity studies that include samples from HCV RNA negative subjects with other causes of liver disease, including autoimmune hepatitis, alcoholic liver disease, chronic hepatitis B virus, primary biliary cirrhosis, and nonalcoholic steatohepatitis, when applicable, is necessary to provide a reasonable assurance of the safety and effectiveness of these devices (see § 866.3170(b)(2)(iv)). FDA also believes that specifying a standard explicitly as part of the special controls that manufacturers must follow is not necessary and would prohibit the use of a new standard in the event that the version of the standard specified in the special controls is revised and/or updated.

(Comment 6) One commenter suggested that FDA provide additional details regarding the study design and analysis required for devices intended for the quantitative detection of HCV RNA by the special control in § 866.3170(b)(4)(C). In addition, the commenter requested clarification on the requirement for clinical studies for nucleic-acid based HCA RNA tests intended for Point of Care (PoC) use and inquired whether the sample size for such studies should be larger than for the other clinical studies required by the special controls.

(Response 6) FDA disagrees with this comment and does not believe that additional specificity is required to provide a reasonable assurance of the safety and effectiveness of these devices because the appropriate sample size for a required study may be influenced by the technology at issue and/or type of device under review.

FDA recommends that device manufacturers interested in obtaining FDA feedback on their study design submit a pre-submission (Ref. 2). In addition, FDA publishes our decision summaries for previously approved or cleared devices for in vitro diagnostic testing on our website and these summaries can be useful aids for

manufacturers to obtain information on the study designs used to support the marketing authorizations of other nucleic-acid based HCV RNA tests (Refs. 3 and 4).

## III. The Final Order

Based on the information discussed in the preamble to the proposed order (April 2, 2020), the comments received for the proposed order, the 2018 Panel delibrations (Ref. 5), and FDA's experiences over the years in reviewing these devices, FDA concludes that special controls, in conjunction with general controls, will provide a reasonable assurance of the safety and effectiveness of nucleic-acid based HCV RNA tests. FDA is adopting its findings under section 513(f)(3) of the FD&C Act, as published in the preamble to the proposed order. FDA is issuing this final order to reclassify nucleic acid-based HCV RNA devices intended for the qualitative or quantitative detection or genotyping of HCV RNA from class III to class II, and to establish special controls by revising 21 CFR part 866. In this final order, the Agency has identified the special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls, provide a reasonable assurance of the safety and effectiveness of these devices.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide a reasonable assurance of the safety and effectiveness of nucleic-acid based HCV RNA tests. Therefore, these devices are not exempt from premarket notification requirements. Persons who intend to market a new nucleic-acid based HCV RNA device intended for the qualitative or quantitative detection or genotyping of HCV RNA must submit to FDA a premarket notification, obtain clearance, and demonstrate compliance with the special controls included in this final order, prior to marketing the device.

These devices are assigned the generic name ''nucleic-acid based hepatitis C virus ribonucleic acid tests'' and are identified as in vitro diagnostic devices intended for prescription use as an aid in the diagnosis of HCV infection in specified populations, and/or as an aid in the management of HCV-infected patients including guiding the selection of genotype-specific treatment in individuals with chronic HCV infection. These tests are intended for use with human serum or plasma. These tests are not intended for use as a donor screening test for the presence of HCV antibodies in blood, blood products, or tissue donors.

Under this final order, nucleic acid-based HCV RNA tests are identified as prescription use only devices and as such, nucleic acid-based HCV RNA tests must satisfy prescription labeling requirements for in vitro diagnostic products (see 21 CFR 809.10(a)(4) and (b)(5)(ii)). Under 21 CFR 807.81, the device continues to be subject to 510(k) requirements.

As part of the process for issuance of this final order and on its own initiative, FDA has identified previously approved nucleic-acid based HCV RNA tests for use as an aid in diagnosis of HCV infection without prior evidence of HCV antibodies. In this final order, FDA has revised the device identification of nucleic-acid based HCV RNA tests to be codified in § 866.3170(a) to clarify that nucleic acid-based HCV RNA tests can include devices used as an aid for diagnosis of HCV infection in specified populations without prior evidence of HCV antibodies because FDA believes that it may be appropriate to use these devices as a one-step diagnostic assay and in the absence of evidence of HCV antibodies.

## IV. Codification of Orders

Prior to the amendments in the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) (FDASIA), section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices. Although section 513(e), as amended by FDASIA, requires FDA to issue final orders rather than regulations, it also provides for FDA to revoke previously issued regulations by order. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as changes to codified classification determinations or as newly codified orders. Therefore, under section 513(e)(1)(A)(i), as amended by FDASIA, in this final order, we are proposing to codify the classification of nucleic-acid based hepatitis C virus ribonucleic acid tests in the new § 866.3170, under which nucleic-acid based HCV RNA tests would be reclassified into class II.

## V. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## VI. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved FDA collections. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR parts 801and 809 have been approved under OMB control number 0910–0485; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

## VII. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restrictions. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.


1. Clinical and Laboratory Standards Institute. *Interference Testing in Clinical Chemistry; Approved Guideline—Second Edition.* CLSI document EP07–A2. Wayne, PA: Clinical and Laboratory Standards Institute; 2005.

*2. ''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program—Guidance for Industry and Food and Drug Administration Staff,'' issued May 7, 2019 (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/requests-feedback-and-meetings-medical-device-submissions-q-submission-program*).

*3. FDA's Premarket Approval Database available on FDA's website at *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPMA/pma.cfm.*

*4. FDA's 510(k) Premarket Notification Database available on FDA's website at *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPMN/pmn.cfm.*

*5. Transcript of the FDA Microbiology Devices Panel Meeting, March 22, 2018

(available at *https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/BloodProductsAdvisoryCommittee/UCM630139.pdf*).

**List of Subjects in 21 CFR Part 866**

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

## PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 866.3170 to subpart D to read as follows:

### § 866.3170 Nucleic acid-based hepatitis C virus ribonucleic acid tests.

(a) *Identification.* A nucleic acid-based hepatitis C virus (HCV) ribonucleic acid (RNA) test is identified as an in vitro diagnostic device intended for prescription use as an aid in the diagnosis of HCV infection in specified populations, and/or as an aid in the management of HCV-infected patients including guiding the selection of genotype-specific treatment in individuals with chronic HCV infection. The test is intended for use with human serum or plasma. The test is not intended for use as a donor screening test for the presence of HCV antibodies in blood, blood products, or tissue donors.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) For all nucleic acid-based HCV RNA tests, the labeling required under § 809.10(b) of this chapter must include:

(i) A prominent statement that the test is not intended for use as a donor screening test for the presence of HCV RNA from human cells, tissues, and cellular and tissue-based products.

(ii) A detailed explanation of the principles of operation and procedures for performing the assay.

(iii) A detailed explanation of the interpretation of results.

(iv) Limitations, which must be updated to reflect current clinical practice and disease presentation and management. These limitations must include, but are not limited to, statements that indicate:

(A) The specimen types for which the device has been cleared and that use of this test kit with specimen types other than those specifically cleared for this device may result in inaccurate test results.

(B) When applicable, that assay performance characteristics have not been established in populations of immunocompromised or immunosuppressed patients or, other populations where test performance may be affected.

(C) Test results are to be interpreted by qualified licensed healthcare professionals in conjunction with the individual's clinical presentation, history, and other laboratory results.

(2) For all nucleic acid-based HCV RNA tests, the design verification and validation must include:

(i) Detailed device description, including the device components, ancillary reagents required but not provided, and an explanation of the device methodology. Additional information appropriate to the technology must be included such as design of primers and probes, rationale for the selected gene targets, specifications for amplicon size, and degree of nucleic acid sequence conservation.

(ii) For devices with assay calibrators, the design and nature of all primary, secondary, and subsequent quantitation standards used for calibration as well as their traceability to a standardized reference material that FDA has determined is appropriate (*e.g.,* a recognized consensus standard). In addition, analytical testing must be performed following the release of a new lot of the standard material that was used for device clearance or approval, or when there is a transition to a new calibration standard.

(iii) Documentation and characterization (*e.g.,* determination of the identity, supplier, purity, and stability) of all critical reagents (including nucleic acid sequences for primers and probes) and protocols for maintaining product integrity.

(iv) Detailed documentation of analytical performance studies conducted as appropriate to the technology, specimen types tested, and intended use of the device, including, but not limited to, limit of detection (LoD), upper and lower limits of quantitation (ULoQ and LLoQ, respectively), linearity, precision, endogenous and exogenous interferences, cross reactivity, carryover, matrix equivalency, and sample and reagent stability. Samples selected for use in analytical studies or used to prepare samples for use in analytical studies must be from subjects with clinically relevant circulating genotypes in the United States. Cross-reactivity studies must include samples from HCV RNA negative subjects with other causes of liver disease, including autoimmune hepatitis, alcoholic liver disease, chronic hepatitis B virus, primary biliary cirrhosis, and nonalcoholic steatohepatitis, when applicable. The effect of each claimed nucleic-acid isolation and purification procedure on detection must be evaluated.

(v) Risk analysis and management strategies, such as Failure Modes Effects Analysis and/or Hazard Analysis and Critical Control Points summaries and their impact on test performance.

(vi) Final release criteria to be used for manufactured test lots with appropriate evidence that lots released at the extremes of the specifications will meet the claimed analytical and clinical performance characteristics as well as the stability claims.

(vii) Multisite reproducibility study that includes the testing of three independent production lots.

(viii) All stability protocols, including acceptance criteria.

(ix) Final release test results for each lot used in clinical studies.

(x) Analytical sensitivity and specificity of the test must be the same or better than that of other cleared or approved tests.

(xi) Lot-to-lot precision studies, as appropriate.

(3) For devices intended for the qualitative detection of HCV RNA, in addition to the special controls listed in paragraphs (b)(1) and (2) of this section, the design verification and validation must include detailed documentation of performance from a multisite clinical study. Performance must be analyzed relative to an FDA cleared or approved qualitative HCV RNA test, or a comparator that FDA has determined is appropriate. This study must be conducted using appropriate patient samples, with appropriate numbers of HCV positive and negative samples in applicable risk categories. Additional genotypes must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. The study designs, including number of samples tested, must be sufficient to meet the following criteria:

(i) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 95 percent.

(ii) Clinical specificity of the test must have a lower bound of the 95 percent

confidence interval of greater than or equal to 96 percent.

(4) For devices intended for the quantitative detection of HCV RNA, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, apply:

(i) Labeling required under § 809.10(b) of this chapter must include a prominent statement that the test is not intended as a diagnostic test to confirm the presence of active HCV infection, when applicable.

(ii) Design verification and validation must include the following:

(A) Detailed documentation of the following analytical performance studies conducted as appropriate to the technology, specimen types tested, and intended use of the device, including but not limited to: LoD, ULoQ and LLoQ. LoD, LLoQ, and linearity studies must demonstrate acceptable device performance with all HCV genotypes detected by the device.

(B) Detailed documentation of clinical performance testing from either:

(*1*) A multisite clinical study with an appropriate number of clinical samples from chronically HCV infected patients in which the results are compared to an FDA-cleared or approved quantitative HCV RNA test, or a comparator that FDA has determined is appropriate. This study must include a sufficient number of HCV positive samples containing an analyte concentration near the LLoQ to describe performance at this level. Clinical samples must cover the full range of the device output and must be consistent with the distribution of these genotypes in the U.S. population. Clinical samples may be supplemented with diluted clinical samples for those viral load concentrations that are not sufficiently covered by natural clinical specimens, or

(*2*) A clinical study with prospectively collected samples demonstrating clinical validity of the device.

(C) Detailed documentation of a qualitative analysis near the lower end of the measuring range demonstrating acceptable performance when used as an aid in diagnosis.

(5) For devices intended for HCV RNA genotyping, in addition to the special controls listed in paragraphs (b)(1) and (2) of this section, design verification and validation must include the following:

(i) Detailed documentation of an analytical performance study demonstrating the LoD for all HCV genotypes detected by the device.

(ii) Detailed documentation, including results, of a multisite clinical study that assesses genotyping accuracy (*i.e.,* the proportion of interpretable results that match with the reference method result) and the genotyping rate (*i.e.,* the proportion of results that were interpretable).

(6) For any nucleic acid-based HCV RNA test intended for Point of Care (PoC) use, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, apply:

(i) Clinical studies must be conducted at PoC sites.

(ii) Additional labeling must include a brief summary of the instructions for use that are appropriate for use in a PoC environment.

Dated: November 16, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021–25379 Filed 11–19–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 866

**[Docket No. FDA–2020–N–1082]**

## Microbiology Devices; Reclassification of Certain Hepatitis C Virus Antibody Assay Devices, Renamed to Hepatitis C Virus Antibody Tests

**AGENCY:** Food and Drug Administration, Department of Health and Human Services (HHS).

**ACTION:** Final amendment; final order.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is issuing a final order to reclassify certain hepatitis C virus (HCV) antibody assay devices intended for the qualitative detection of HCV, postamendments class III devices (product code MZO) into class II (general controls and special controls), subject to premarket notification. FDA is renaming and codifying these devices under the classification regulation named ''hepatitis C virus (HCV) antibody tests.'' FDA is also identifying the special controls that the Agency believes are necessary to provide a reasonable assurance of safety and effectiveness of these devices.

**DATES:** This order is effective December 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Maria Ines Garcia, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3104, Silver Spring, MD 20993–0002, 301–796–7017, *Maria.Garcia@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three classes of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three classes of devices are class I (general controls), class II (general and special controls), and class III (general controls and premarket approval).

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process.[1] Those devices remain in class III and require premarket approval unless, and until, (1) FDA reclassifies the device into class I or II, or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. FDA determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807), subpart E, of the regulations.

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) of the FD&C Act provides that FDA, acting by administrative order, can reclassify the device into class I or II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide a reasonable assurance of the safety and effectiveness of the device for its intended use.

FDA relies upon ''valid scientific evidence,'' as defined in section 513(a)(3) of the FD&C Act and

[1] HCV antibody assay devices for the qualitative detection of HCV with intended uses outside the scope of the classification under 21 CFR 866.3169 are considered postamendments devices that are subject to classification under section 513(f)(1) of the FD&C Act or, if the relevant requirements are met, under section 513(f)(2) of the FD&C Act.

§ 860.7(c)(2) (21 CFR 860.7(c)(2)), in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available (see section 520(c) of the FD&C Act (21 U.S.C. 360j(c))). Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending premarket approval application (PMA) (see section 520(c) of the FD&C Act).

FDA published a proposed order in the **Federal Register** of April 2, 2020 (85 FR 18490), to reclassify these device types from class III into class II (general controls and special controls), subject to premarket notification. FDA has considered the information available to the Agency, including the deliberations of the March 22, 2018, Microbiology Devices Panel (2018 Panel), and comments from the public docket to determine that there is sufficient information to establish special controls to effectively mitigate the risks to the health identified in section V of the proposed order, and that these special controls, together with general controls, provide a reasonable assurance of safety and effectiveness when applied to certain HCV antibody assay devices intended for the qualitative detection of HCV.

Therefore, in accordance with section 513(f)(3) of the FD&C Act, FDA, on its own initiative, is issuing this final order to reclassify certain HCV antibody assay devices intended for the qualitative detection of HCV from class III to class II (general and special controls).[2]

## II. Comments on the Proposed Order

On April 2, 2020, FDA published in the **Federal Register** a proposed order (85 FR 18490) to reclassify certain HCV antibody assay devices intended for the qualitative detection of HCV from class III to class II, subject to premarket notification. The comment period on the proposed order closed on June 1, 2020. In response to the proposed order, FDA received comments from industry, healthcare associations, public health departments, and individual consumers by the close of the comment period, some of which contained one or more comments on one or more issues. We describe and respond to the comments in this section of the document. Certain comments are grouped based on common themes; we grouped similar comments together under the same number and listed them numerically.

The order of response to the commenters is purely for organizational purposes and does not signify the comment's value or importance nor the order in which comments were received. Please note that in some cases we separated different issues discussed by the same commenter and designated them as distinct comments for purposes of our responses.

(Comment 1) FDA received numerous comments in favor of the proposed reclassification of certain HCV antibody assay devices intended for the qualitative detection of HCV from class III to class II with special controls. Commenters stated they believed that special controls, along with general controls, could provide a reasonable assurance of the safety and effectiveness of these devices. In addition, they believed that the decreased regulatory burden resulting from the reclassification could encourage further development of, and provide patients more timely access to, these devices. Overall, there was a general consensus among the commenters that the proposed special controls are necessary and sufficient to mitigate the risks to health of patients presented by these devices and to provide reasonable assurance of the safety and effectiveness of these devices.

(Response 1) Based on the evidence considered, comments received in response to the proposed order and deliberations of the 2018 Panel, FDA agrees with the commenters that reclassification of certain HCV antibody assay devices for the qualitative detection of HCV from class III into class II and that special controls, in addition to general controls, can provide a reasonable assurance of the safety and effectiveness of these devices. In addition, FDA expects that the reclassification of these devices would enable more manufacturers to develop them such that patients would benefit from increased access to safe and effective tests.

(Comment 2) One comment expressed concerns about the proposed reclassification of these devices from class III into class II. The commenter suggested that there was not enough justification to reclassify these devices at this time and asked for clarification on FDA's justification proposing this reclassification. The commenter also asked for clarification on whether a high demand of these devices was a consideration in FDA's proposed reclassification order.

(Response 2) Based on the evidence considered, comments received in response to the proposed order and deliberations of the 2018 Panel, FDA disagrees with this comment and continues to believe that reclassification of these devices is justified for the reasons identified in the proposed order (85 FR 18490). FDA's justification for reclassifying these devices is based on the unanimous recommendation of the 2018 Panel, FDA's accumulated experience with these devices from review submissions, and from published peer-reviewed literature. In addition, FDA believes that the special controls identified in this final order, in addition to the general controls, will provide a reasonable assurance of the safety and effectiveness of these devices.

FDA relies upon ''valid scientific evidence'' as defined in section 513(a)(3) of the FD&C Act and § 860.7(c)(2) in the classification process to determine the level of regulation for devices. FDA believes the standard in section 513(a)(1)(B) of the FD&C Act is met as there is sufficient information to establish special controls, which, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of these devices. While FDA expects that the reclassification of these devices would enable more manufacturers to develop HCV antibody tests such that patients would benefit from increased access to safe and effective tests, this is not a consideration in the Agency's reclassification determination.

(Comment 3) Several commenters had questions about the scope of the proposed reclassification order. Several commenters noted that the proposed reclassification order identified these devices as HCV antibody tests for prescription use and suggested that the reclassification order should also include HCV antibody tests intended for over-the-counter (OTC) use. In addition, one commenter suggested that FDA's reclassification order should also include HCV antigen tests, tests for hepatitis A and hepatitis B, and also that the reclassification should include other specimen types for HCV antibody tests beyond those identified in the proposed order (*e.g.,* urine or saliva).

(Response 3) These comments are beyond the scope of FDA's proposed reclassification order which applies only to HCV antibody tests that have been previously approved by FDA. FDA has not approved any HCV antibody tests intended for OTC use and FDA believes that an HCV antibody tests

[2] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of the Federal Register's (OFR) interpretation of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22) and the Document Drafting Handbook.

intended for OTC use would be a new type of device not previously classified based on the criteria at section 513(a)(1) of the FD&C Act and, as a result, such postamendments devices would be automatically classified into class III by operation of section 513(f)(1) of the FD&C Act. FDA believes that an HCV antibody test intended for OTC use may be a good candidate for the De Novo classification process under section 513(f)(2) of the FD&C Act (Refs. 1 and 2). FDA recommends that device manufacturers interested in marketing an HCV antibody test for OTC use submit a Pre-Submission to request FDA feedback on the studies and data that may be necessary to support a De Novo request (Ref. 3).

Similarly, to date, FDA has only approved HCV antibody tests intended for use with human serum or plasma and new specimen types are beyond the scope of this reclassification order.

(Comment 4) Several commenters expressed support of FDA's proposal to rename these devices from ''hepatitis C virus antibody assay devices'' to ''hepatitis C virus (HCV) antibody tests.'' These commenters believed that the new name for these devices made clear that these are diagnostic tests and is consistent with the naming of similar diagnostic devices. Alternatively, several commenters provided suggestions on FDA's proposal to rename these devices to ''hepatitis C virus (HCV) antibody tests.'' One commenter suggested renaming these devices ''HCV serological tests.'' Another commenter suggested renaming these devices ''hepatitis C virus (HCV) antibody test devices.''

(Response 4) FDA believes that the new identification of these devices as ''hepatitis C virus (HCV) antibody tests'' is both understandable to consumers and industry and is consistent with the naming of similar diagnostic devices.

FDA disagrees with those commenters that proposed renaming these devices ''HCV serological tests'' or ''hepatitis C virus (HCV) antibody test devices'' as FDA believes that the identification of these devices as ''hepatitis C virus (HCV) antibody tests'' adequately identifies the types of devices that would be affected by this reclassification action and is clear and consistent with the naming of similar diagnostic devices.

(Comment 5) One commenter suggested that HCV antibody tests could be classified in part 866 (21 CFR part 866) after ''Hepatitis A virus (HAV) serological reagents'' which are currently classified under 21 CFR 866.3310.

(Response 5) FDA disagrees with this comment because FDA believes that the classification of HCV antibody tests under § 866.3169 (21 CFR 866.3169) is appropriate. In addition, FDA has proposed to reclassify nucleic acid-based HCV ribonucleic acid (RNA) devices intended for the qualitative or quantitative detection or genotyping of HCV RNA under § 866.3170 (21 CFR 866.3170) (85 FR 18483). The classification of HCV antibody tests in § 866.3169 would allow for these devices to be located next to nucleic acid-based HCV RNA tests in the Code of Federal Regulations (CFR).

(Comment 6) One commenter requested that FDA state the time that it generally takes for FDA to review 510(k) submissions and PMA applications.

(Response 6) Review times for a particular device may vary but the FD&C Act requires manufacturers to submit a 510(k) to FDA at least 90 days before introducing, or before delivering for introduction, a device into interstate commerce (see section 510(k) of the FD&C Act). For comparison, FDA has 180 days to review a PMA starting on the date an application is accepted for filing (see section 515(d) of the FD&C Act (21 U.S.C. 360e(d)) and 21 CFR 814.40).

(Comment 7) One comment indicated a patient who was diagnosed with hepatitis was successfully treated. Another comment requested that FDA consider reducing the prices of HCV antibody tests as a result of their reclassification.

(Response 7) Each of these comments are outside the scope of this reclassification action.

(Comment 8) Several comments expressed general support of the special controls identified in the proposed order and believed they would provide a reasonable assurance of safety and effectiveness of these devices. In addition, several commenters suggested that FDA revise the special controls to include a requirement that the labeling identify where and when these devices may be used consistent with infection control standards and FDA guidance documents for infection control. Additionally, it was suggested that the labeling specify the special populations of patients for which test performance may be affected.

(Response 8) FDA continues to believe that the special controls identified in the proposed order and finalized in this final order are sufficient to provide a reasonable assurance of safety and effectiveness of HCV antibody tests.

FDA disagrees that a further level of specificity is necessary for inclusion within the special controls to provide a reasonable assurance of safety and effectiveness for these devices and wants to ensure that the special controls remain appropriate and applicable to provide a reasonable assurance of safety and effectiveness for these devices over time. Further, performance of these devices may evolve over time for special populations and any special populations for which performance of these devices may be affected are required to be included in the labeling for these devices by the special controls (see § 866.3169(b)(1)(ii)(A)).

## III. The Final Order

Based on the information discussed in the preamble to the proposed order (85 FR 18490), the comments received for the proposed order, the 2018 Panel deliberations (Ref. 4), and FDA's experiences over the years in reviewing these device types, FDA concludes that special controls, in conjunction with general controls, will provide a reasonable assurance of the safety and effectiveness of HCV antibody tests. FDA is adopting its findings under section 513(f)(3) of the FD&C Act, as published in the preamble to the proposed order. FDA is issuing this final order to reclassify HCV antibody tests intended for the qualitative detection of HCV from class III to class II, and establishing special controls by revising part 866. In this final order, the Agency has identified the special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls, provide a reasonable assurance of the safety and effectiveness of these devices.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide a reasonable assurance of the safety and effectiveness of HCV antibody tests. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market a new HCV antibody assay device must submit to FDA a premarket notification, obtain clearance, and demonstrate compliance with the special controls included in this final order, prior to marketing the device.

These devices are assigned the generic name ''HCV antibody tests'' and identified as in vitro diagnostic devices intended for use with human serum,

plasma, or other matrices as a prescription device that aids in the diagnosis of HCV infection in persons with signs and symptoms of hepatitis and in persons at risk for hepatitis C infection. The test is not intended for screening blood, plasma, cell, or tissue donors.

Under this final order, HCV antibody tests are identified as prescription use only devices and as such, HCV antibody tests must satisfy prescription labeling requirements for in vitro diagnostic products (see 21 CFR 809.10(a)(4) and (b)(5)(ii)). Under 21 CFR 807.81, the device continues to be subject to 510(k) requirements.

## IV. Codification of Orders

Prior to the amendments in the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) (FDASIA), section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices. Although section 513(e), as amended by FDASIA, requires FDA to issue final orders rather than regulations, it also provides for FDA to revoke previously issued regulations by order. FDA will continue to codify classifications and reclassifications in the CFR. Changes resulting from final orders will appear in the CFR as changes to codified classification determinations or as newly codified orders. Therefore, under section 513(e)(1)(A)(i), as amended by FDASIA, in this final order, we are proposing to codify the classification of hepatitis c virus antibody tests in the new § 866.3169, under which HCV antibody tests would be reclassified into class II.

## V. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## VI. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved FDA collections. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

## VII. References

The following references are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500 and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.


1. ''De Novo Classification Process (Evaluation of Automatic Class III Designation)—Guidance for Industry and Food and Drug Administration Staff,'' issued October 30, 2017 (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/de-novo-classification-process-evaluation-automatic-class-iii-designation*).
2. ''Acceptance Review for De Novo Classification Requests—Guidance for Industry and Food and Drug Administration Staff,'' issued September 9, 2019 (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/acceptance-review-de-novo-classification-requests*).
3. ''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program—Guidance for Industry and Food and Drug Administration Staff,'' issued May 7, 2019 (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/requests-feedback-and-meetings-medical-device-submissions-q-submission-program*).
4. Transcript of the FDA Microbiology Devices Panel Meeting, March 22, 2018 (available at *https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/BloodProductsAdvisoryCommittee/UCM630139.pdf*).


## List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

## PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. Add § 866.3169 to subpart D to read as follows:

### § 866.3169 Hepatitis C virus antibody tests.

(a) *Identification.* A hepatitis C virus (HCV) antibody test is identified as an in vitro diagnostic device intended for use with human serum, plasma, or other matrices as a prescription device that aids in the diagnosis of HCV infection in persons with signs and symptoms of hepatitis and in persons at risk for hepatitis C infection. The test is not intended for screening blood, plasma, cell, or tissue donors.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The labeling required under § 809.10(b) of this chapter must include:

(i) A prominent statement that the test is not intended for the screening of blood, plasma, and cell or tissue donors.

(ii) Limitations, which must be updated to reflect current clinical practice and disease presentation and management. The limitations must include, but are not limited to, statements that indicate:

(A) When appropriate, the performance characteristics of the test have not been established in populations of immunocompromised or immunosuppressed patients or, other special populations where test performance may be affected.

(B) The detection of HCV antibodies indicates a present or past infection with hepatitis C virus, but does not differentiate between acute, chronic, or resolved infection.

(C) The specimen types for which the device has been cleared, and that use of the test with specimen types other than those specifically cleared for this device may result in inaccurate test results.

(D) Test results are to be interpreted by qualified licensed healthcare professionals in conjunction with the individual's clinical presentation, history, and other laboratory results.

(E) A non-reactive test result may occur early during acute infection, prior to development of a host antibody response to infection, or when analyte levels are below the limit of detection of the test.

(iii) A detailed explanation of the principles of operation and procedures for performing the test.

(2) Design verification and validation must include the following:

(i) A detailed device description, including all parts that make up the device, ancillary reagents required but not provided, an explanation of the device methodology, and design of the antigen(s) and capture antibody(ies)

sequences, rationale for the selected epitope(s), degree of amino acid sequence conservation of the target, and the design and nature of all primary, secondary, and subsequent standards used for calibration.

(ii) Documentation and characterization (*e.g.,* supplier, determination of identity, and stability) of all critical reagents (including description of the antigen(s) and capture antibody(ies)), and protocols for maintaining product integrity throughout its labeled shelf life.

(iii) Risk analysis and management strategies, such as Failure Modes Effects Analysis and/or Hazard Analysis and Critical Control Points summaries and their impact on test performance.

(iv) Final release criteria to be used for manufactured test lots with appropriate evidence that lots released at the extremes of the specifications will meet the claimed analytical and clinical performance characteristics as well as the stability claims.

(v) Stability studies for reagents must include documentation of an assessment of real-time stability for multiple reagent lots using the indicated specimen types and must use acceptance criteria that ensure that analytical and clinical performance characteristics are met when stability is assigned based on the extremes of the acceptance range.

(vi) All stability protocols, including acceptance criteria.

(vii) Final release test results for each lot used in clinical studies.

(viii) Multisite reproducibility study that includes the testing of three independent production lots.

(ix) Analytical performance studies and results for determining the limit of blank (LoB), limit of detection (LoD), cutoff, precision (reproducibility) including lot-to-lot and/or instrument-to-instrument precision, interference, cross reactivity, carryover, hook effect, seroconversion panel testing, matrix equivalency, specimen stability, reagent stability, and cross-genotype antibody detection sensitivity, when appropriate.

(x) Analytical sensitivity of the test is the same or better than that of other cleared or approved tests.

(xi) Detailed documentation of clinical performance testing from a multisite clinical study. Performance must be analyzed relative to an FDA cleared or approved HCV antibody test, or a comparator that FDA has determined is appropriate. This study must be conducted using appropriate patient samples, with an acceptable number of HCV positive and negative samples in applicable risk categories. Additional relevant patient groups must be validated as appropriate. The samples may be a combination of fresh and repository samples, sourced from geographically diverse areas. The study designs, including number of samples tested, must be sufficient to meet the following criteria:

(A) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 95 percent.

(B) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 96 percent.

(3) For any HCV antibody test intended for Point of Care (PoC) use, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, apply:

(i) Clinical studies must be conducted at PoC sites.

(ii) Additional labeling must include a brief summary of the instructions for use that are appropriate for use in a PoC environment.

Dated: November 16, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021–25374 Filed 11–19–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 878

**[Docket No. FDA–2016–M–0035]**

## Effective Date of Requirement for Premarket Approval for Blood Lancets

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final order.

**SUMMARY:** The Food and Drug Administration (FDA, Agency, or we) is issuing a final order to require the filing of a premarket approval application (PMA) or notice of completion of a product development protocol (PDP) following the reclassification of multiple use blood lancets for multiple patient use from class I to class III.

**DATES:** This order is effective on November 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527, *rebecca.nipper@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d)(1) of the FD&C Act, devices that were in commercial distribution before the enactment of the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), May 28, 1976 (generally referred to as ''preamendments devices''), are classified after FDA: (1) Receives a recommendation from a device classification panel (an FDA advisory committee); (2) publishes the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) publishes a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type (both the preamendments and substantially equivalent devices are referred to as preamendments class III devices) may be marketed without submission of a PMA until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval. Section 515(b)(1) of the FD&C Act directs FDA to issue an order requiring premarket approval for a preamendments class III device.

Section 515(f) of the FD&C Act provides an alternative pathway for meeting the premarket approval requirement. Under section 515(f), manufacturers may meet the premarket approval requirement if they file a notice of completion of a PDP approved under section 515(f)(4) of the FD&C Act and FDA declares the PDP completed under section 515(f)(6)(B) of the FD&C Act. Accordingly, the manufacturer of a preamendments class III device may comply with a call for PMAs by filing a PMA or a notice of completion of a PDP. In practice, however, the option of filing a notice of completion of a PDP has rarely been used. For simplicity, although the PDP option remains available to manufacturers in response to a final order under section 515(b) of

the FD&C Act, this document will refer only to the requirement for the filing and obtaining approval of a PMA.

On July 9, 2012, Congress enacted the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). Section 608(b) of FDASIA amended section 515(b) of the FD&C Act, changing the process for requiring premarket approval for a preamendments class III device from rulemaking to an administrative order.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments to a public docket.

In June 2013, FDA held a meeting of a device classification panel described in section 513(b) of the FD&C Act to discuss the classification of multiple use blood lancets for multiple patient use (Ref. 1). Although, to FDA's knowledge, no device is currently being marketed for this use, one device has been cleared for this use. This device classification panel meeting discussed whether multiple use blood lancets for multiple patient use should be reclassified into class III or remain in class I, and the discussion included whether PMAs should be required for these devices. The panel recommended that, because multiple use blood lancets for multiple patient use present a potential unreasonable risk of illness or injury and insufficient information exists to establish special controls for multiple use blood lancets for multiple patient use, the device should be reclassified into class III. FDA is not aware of new information that would provide a basis for a different recommendation or findings.

On March 3, 2016, FDA published a proposed order (81 FR 11140) to reclassify multiple use blood lancets for multiple patient use from class I (general controls), exempt from premarket notification, into class III (premarket approval). On March 3, 2016, FDA published a second proposed order (81 FR 11151) to require the filing of a PMA following the reclassification of multiple use blood lancets for multiple patient use from class I to class III.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order, consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

A preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act becomes effective, whichever is later (section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)). Elsewhere in this issue of the **Federal Register**, FDA is issuing a final order to reclassify multiple use blood lancets for multiple patient use from class I to class III. Therefore, the date by which a PMA for multiple use blood lancets for multiple patient use must be filed is May 22, 2024. If a PMA is not filed for such device by May 22, 2024, as specified in section 501(f)(2)(B) of the FD&C Act, then the device would be deemed adulterated under section 501(f) of the FD&C Act unless the device is distributed for investigational use under an approved application for an investigational device exemption (IDE).

## II. Public Comments on Proposed Order and FDA Response

In response to the proposed order to require the filing of a PMA for multiple use blood lancets for multiple patient use, FDA received two comments. The comments and FDA responses to the comments are summarized in this section. The number assigned to each comment is purely for organizational purposes and does not signify the comment's value or importance or the order in which it was submitted.

(Comment 1) Comment supports regulation of blood lancets to lower the risk of injury associated with such devices during home use, including use by patients who may have shaking hands due to low blood sugar.

(Response 1) FDA agrees that blood lancets, including multiple use blood lancets for multiple patient use, should be regulated to provide a reasonable assurance of the safety and effectiveness for these devices.

(Comment 2) Comment recommends banning multiple use blood lancets for multiple patient use because the devices present a potential unreasonable risk of illness that cannot be adequately addressed through the PMA process and single patient lancets are available.

(Response 2) Section 516 of the FD&C Act gives FDA the authority to ban a device. Section 516 authorizes FDA to ban a device when, on the basis of all available data and information, FDA finds that the device presents substantial deception or an unreasonable and substantial risk of illness or injury and, where such deception or risk could be corrected or eliminated by labeling or change in labeling and with respect to which the Secretary of the Department of Health and Human Services (Secretary) provided written notice to the manufacturer specifying the deception or risk of illness or injury, the labeling or change in labeling to correct the deception or eliminate or reduce such risk, and the period within which such labeling or change in labeling was to be done, such labeling or change in labeling was not done within such period.

As stated earlier in this document, FDA issued a proposed order (81 FR 11151) under section 515(b) of the FD&C Act to require the filing of PMAs for multiple use blood lancets for multiple patient use following reclassification, which would require an individual demonstration of a reasonable assurance of safety and effectiveness for such a device before it may be marketed. In the proposed order, FDA recognized and agreed with the recommendations from the Panel [1] that based on the available scientific evidence, multiple use blood lancets for multiple patient use should be reclassified to class III because these devices present a potential unreasonable risk of illness or injury and insufficient information exists to establish special controls for these devices because there is no evidence that they can be adequately cleaned and disinfected and there is no proven method of doing so. To FDA's knowledge, although one device has been cleared for this use, no device is currently being marketed for this use. FDA believes that evidence may be provided through a PMA to demonstrate a reasonable assurance of safety and effectiveness of the device. Additionally, such evidence may provide additional information to allow FDA to impose controls to mitigate the risk and more clearly characterize the benefits of these devices. At this time and on the basis of all available data and information, FDA does not believe that this device presents substantial deception or an unreasonable and

[1] See FDA's General and Plastic Surgery Devices Panel meeting transcript for the June 26, 2013, meeting (Ref. 1) discussion at page 104.

substantial risk of illness or injury to support a ban.

## III. The Final Order

Under section 515(b)(3) of the FD&C Act, FDA is adopting its findings as published in the proposed order (81 FR 11151) and is issuing this final order to require the filing of a PMA for multiple use blood lancets for multiple patient use. This final order will revise 21 CFR part 878. Elsewhere in this issue of the **Federal Register**, FDA is reclassifying multiple use blood lancets for multiple patient use into class III under section 513(e) of the FD&C Act.

Under the final order, a PMA is required to be filed on or before May 22, 2024, for any of these preamendments class III devices that were in commercial distribution before May 28, 1976, or that have been found by FDA to be substantially equivalent to such a device on or before May 22, 2024. An applicant of a device subject to this order that was legally in commercial distribution before May 28, 1976, or that has been found to be substantially equivalent to a device that was legally in commercial distribution before May 28, 1976, may continue marketing such class III device during FDA's review of the PMA provided that the PMA is filed on or May 22, 2024. However, if FDA denies approval of the PMA, then the device will be deemed adulterated under section 501(f)(1)(A) of the FD&C Act, and commercial distribution of the device must cease immediately. Any other device subject to this order is required to have an approved PMA in effect before it may be marketed. FDA intends to review any PMA for the device within 180 days of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the Agency finds that ''the continued availability of the device is necessary for the public health.''

If a PMA for any of the preamendments class III devices subject to this order is not filed on or before May 22, 2024, that device will be deemed adulterated under section 501(f)(1)(A) of the FD&C Act, and commercial distribution of the device must cease immediately. FDA requests that manufacturers take action to prevent the further use of multiple use blood lancets for multiple patient use for which no PMA has been filed.

The device may, however, be distributed for investigational use, if the applicable requirements of the IDE regulations (part 812 (21 CFR part 812)), including obtaining IDE approval, are met on or before May 22, 2024. There will be no extended period for filing an IDE or exemption from the IDE requirements (see § 812.2(d)), and clinical studies may not be initiated without appropriate IDE approvals, as required.

Until the date when a PMA must be filed, any multiple use blood lancet for multiple patient use not in commercial distribution as of the effective date of this order is subject to premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807, subpart E, unless the device is exempt from 510(k) because the applicable requirements of part 812, including obtaining IDE approval, are met.

## IV. Codification of Orders

Prior to the amendments by FDASIA, section 515(b) of the FD&C Act provided for FDA to issue regulations to require approval of an application for premarket approval for preamendments devices or devices found substantially equivalent to preamendments devices. Section 515(b) of the FD&C Act, as amended by FDASIA, provides for FDA to require approval of an application for premarket approval for such devices by issuing a final order following the issuance of a proposed order in the **Federal Register**. FDA will continue to codify the requirement for an application for premarket approval in the Code of Federal Regulations (CFR). Therefore, under section 515(b)(1) of the FD&C Act, as amended by FDASIA, in this final order, FDA is requiring approval of an application for premarket approval for multiple use blood lancets for multiple patient use and the Agency is making the language in 21 CFR 878.4850 consistent with this final order.

## V. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## VI. Paperwork Reduction Act of 1995

FDA concludes that this final order contains no new collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required. This final order refers to previously approved FDA collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231. The collections of information in part 807, subpart E, have been approved under OMB control number 0910–0120. The collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485. The collections of information in part 812 have been approved under OMB control number 0910–0078.

## VII. Reference

The following reference is on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov.* FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA's General and Plastic Surgery Devices Panel meeting transcript and other meeting materials for the June 26, 2013, meeting, available at: *https://wayback.archive-it.org/7993/20170113134353/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/GeneralandPlasticSurgeryDevicesPanel/UCM362831.pdf;* and *https://wayback.archive-it.org/7993/20170405193132/https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/GeneralandPlasticSurgeryDevicesPanel/ucm349426.htm.*

## List of Subjects in 21 CFR Part 878

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878, as amended elsewhere in this issue of the **Federal Register**, is further amended as follows:

## PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for part 878 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. In § 878.4850, add paragraph (d)(3) to read as follows:

### § 878.4850 Blood lancets.

* * * * *

(d) * * *

(3) *Date PMA or notice of completion of a PDP is required:* A PMA or a notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before May 22, 2024, for any multiple use blood lancet for multiple patient use described in paragraph (d)(1) of this section that was in commercial distribution before May 28, 1976, or that has, on or before May 22, 2024, been found to be substantially equivalent to a multiple use blood lancet for multiple patient use described in paragraph (d)(1) of this section that was in commercial distribution before May 28, 1976. Any other multiple use blood lancet for multiple patient use shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Dated: November 16, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021–25381 Filed 11–19–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 878

**[Docket No. FDA–2016–N–0400]**

## Medical Devices; General and Plastic Surgery Devices; Reclassification of Blood Lancets

**AGENCY:** Food and Drug Administration, Department of Health and Human Services (HHS).

**ACTION:** Final amendment; final order.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is issuing a final order to reclassify three types of blood lancets used to puncture skin to obtain a drop of blood for diagnostic purposes from class I (general controls) exempt from premarket notification into class II (special controls) and subject to premarket notification, specifically, single use only blood lancets with an integral sharps injury prevention feature, single use only blood lancets without an integral sharps injury prevention feature, and multiple use blood lancets for single patient use only. FDA is designating special controls for these three types of blood lancets based on the determination that general controls only are not sufficient and there is sufficient information to establish special controls to provide a reasonable assurance of their safety and effectiveness. FDA is also reclassifying a fourth type of blood lancet, multiple use blood lancets for multiple patient use, from class I (general controls) exempt from premarket notification into class III (premarket approval). FDA is reclassifying these four types of blood lancets on its own initiative based on new information.

**DATES:** This order is effective November 22, 2021. See further discussion in section VI, Implementation Strategy.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Nipper, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993, 301–796–6527, *Rebecca.Nipper@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911, *Stephen.Ripley@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents



### I. Table of Abbreviations/Commonly Used Acronyms in This Document

| Abbreviation or acronym | What it means |
|---|---|
| 510(k) | Premarket Notification. |
| 515(b) Proposed Order | Proposed Order calling for premarket approval applications for class III blood lancets published on March 3, 2016 (81 FR 11151). |
| 513(e) Proposed Order | Proposed Order to reclassify blood lancets published on March 3, 2016 (81 FR 11140). |
| Agency | Food and Drug Administration. |
| CDC | Centers for Disease Control and Prevention. |
| CFR | Code of Federal Regulations. |
| EPA | Environmental Protection Agency. |
| FDA | Food and Drug Administration. |
| FDASIA | Food and Drug Administration Safety and Innovation Act. |
| FD&C Act | Federal Food, Drug, and Cosmetic Act. |
| FR | Federal Register. |
| HIV | Human Immunodeficiency Virus. |
| OMB | Office of Management and Budget. |
| Panel | General & Plastic Surgery Devices Panel of the Medical Devices Advisory Committee, device classification panel on June 26, 2013. |
| PDP | Product Development Protocol. |
| PMA | Premarket Approval Application. |
| PRA | Paperwork Reduction Act of 1995. |
| PT/INR | Prothrombin Time and International Normalized Ratio. |
| Ref | Reference. |
| UDI | Unique Device Identifier. |
| UPC | Universal Product Code. |
| U.S.C | United States Code. |

## II. Background

### A. Classification

The Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 301 *et seq.*), as amended, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d) of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments on May 28, 1976 (generally referred to as ''preamendments devices'') are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

### B. Reclassification

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order for reclassifying a device. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments to a public docket.

FDA published a proposed order in the **Federal Register** of March 3, 2016 (81 FR 11140), held a device classification panel meeting of the General & Plastic Surgery Devices Panel of the Medical Devices Advisory Committee, on June 26, 2013 (the Panel), as described in section 513(b) of the FD&C Act with respect to the four different types of blood lancet devices, and considered comments from public dockets. Therefore, FDA has met the requirements under section 513(e)(1) of the FD&C Act.

### C. Requirement for Premarket Approval

Elsewhere in this issue of the **Federal Register**, FDA has published a final order requiring the filing of a premarket approval application (PMA) or notice of completion of a product development protocol (PDP) for multiple patient blood lancets (class III). In practice, the option of filing a notice of completion of a PDP has rarely been used by manufacturers. For simplicity, while corresponding requirements for PDPs remain available to manufacturers in response to a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)), this document will refer only to the requirement for the filing and obtaining approval of a PMA.

## III. Public Comments in Response to the Proposed Order

In the **Federal Register** of March 3, 2016, FDA published a proposed order to reclassify single patient use blood lancets from class I (general controls) exempt from premarket notification to class II (special controls) and to reclassify multiple patient blood lancets from class I (general controls) exempt from premarket notification to class III (premarket approval) (513(e) Proposed Order, 81 FR 11140)). On that same date, FDA also published a proposed order to require the filing of a PMA for multiple patient blood lancets (515(b) Proposed Order) (81 FR 11151). The proposed orders also stated that FDA proposed to amend 21 CFR part 878 to create a separate regulation under § 878.4850 (21 CFR 878.4850) for all blood lancet types (previously identified with product codes FMK or JCA). The comment periods for both proposed orders closed on June 1, 2016.

The March 3, 2016, 513(e) Proposed Order received approximately 150 comments from industry, professional societies, trade organizations, and individual consumers by the close of the comment period. Certain comments have been grouped together under a single comment since the theme of the comments are similar in nature. The grouped comments and FDA's response to each grouping are summarized in this section. The number assigned to each comment is purely for organizational purposes and does not signify the comment's value, importance, or the order in which it was received.

As previously set forth in the 513(e) Proposed Order, FDA identified the following four subsets of blood lancet devices:

1. A single use only blood lancet with an integral sharps injury prevention feature is a disposable blood lancet intended for a single use that is comprised of a single use blade attached to a solid, non-reusable base (including an integral sharps injury prevention feature) that is used to puncture the skin to obtain a drop of blood for diagnostic purposes. The integral sharps injury prevention feature allows the device to be used once and then renders it inoperable and incapable of further use (''subset 1'');

2. A single use only blood lancet without an integral sharps injury prevention feature is a disposable blood lancet intended for a single use that is comprised of a single use blade attached to a solid, non-reusable base that is used to puncture the skin to obtain a drop of blood for diagnostic purposes (''subset 2'');

3. A multiple use blood lancet for single patient use only is a multiple use capable blood lancet intended for use on a single patient that is comprised of a single use blade attached to a solid, reusable base that is used to puncture the skin to obtain a drop of blood for diagnostic purposes (''subset 3''); and

4. A multiple use blood lancet for multiple patient use is a multiple use capable blood lancet intended for use on multiple patients that is comprised of a single use blade attached to a solid, reusable base that is used to puncture the skin to obtain a drop of blood for diagnostic purposes (''subset 4'').

(Comment 1) Several comments generally agreed with the proposed reclassification of all four types of blood lancet devices. Some comments supported the proposed precautions and labeling special controls as necessary for healthcare providers and users of single patient use blood lancets. Other comments agreed that the risks to public health associated with use of multiple use blood lancets for multiple patients are sufficiently significant for FDA to reclassify this device type into class III (premarket approval).

(Response 1) After considering the Panel's recommendations and examination of scientific information (Ref. 1, and previously described in the 513(e) Proposed Order (81 FR 11140 at 11142), FDA continues to believe that there is sufficient evidence to establish special controls that, together with general controls, provide a reasonable assurance of safety and effectiveness to reclassify single patient use only blood lancets to class II, as initially specified in the 513(e) Proposed Order. Further, FDA continues to believe that blood lancets for multiple patient use present a potential for unreasonable risk of illness or injury, that insufficient information exists for FDA to determine that special controls would provide a reasonable assurance of safety and effectiveness of the device, and that blood lancets for multiple patient use should be reclassified into class III.

(Comment 2) Several comments stated that the evidence for a risk of infection was associated with the use of blood lancets in a professional care setting and therefore there was no evidence to

support reclassification of personal blood lancet devices in home use environments.

(Response 2) FDA disagrees with the comments that there is no evidence to support the reclassification of single patient use blood lancets for home use from class I (general controls) to class II (special controls). At the Panel meeting on June 26, 2013, FDA presented an analysis of the risks to health associated with the use of blood lancets and new scientific data supporting these risks (Ref. 2). Although the information on infection transmission was generated in healthcare settings, FDA believes the risks to health are general risks that apply to all single use patient blood lancets, regardless of the environment in which they are used. Based on the scientific evidence available to the Agency at that time, blood may be transmitted between patient and care givers by the misuse of ''single use only'' medical devices that are not intended for or labeled for reuse, because they are not designed to be cleaned or sterilized to become safe for reuse, such as needles or syringes (Ref. 2). Similarly, transmission may also occur if validated cleaning and disinfection instructions are not identified and followed for multiple use blood lancets for single patient use only (subset 3). After reviewing the new scientific data supporting the identified risks to health, the Panel recommended that reclassifying single patient use blood lancets from class I (general controls) to class II (special controls) will provide a reasonable assurance of the safety and effectiveness of blood lancets for single patient use.

The Panel also acknowledged that many of the adverse event reports of device problems indicate that accidental sticks are most likely when safety features malfunction, the lancet is difficult to remove, or when lancets are too dull to pierce the skin or too long to fit within the safety caps (Ref. 2). From January 1, 2015, to May 31, 2021, FDA received over 3,100 reports for blood lancets, most of which are device malfunctions. The most commonly reported problems include accidental blade sticks, the blade breaking off or remaining in a patient's finger, and the blade protruding from the device cap or not retracting. In addition, FDA received numerous reports of device malfunctioning and retraction problems with the blood lancets.

FDA agrees with the Panel that reclassification from class I to class II is appropriate for single patient use blood lancets and is supported by FDA's findings reported in the 513(e) Proposed Order, adverse event reporting, and the panel executive summary (Ref. 2). FDA also agrees with the Panel that premarket notification (510(k)) submissions are necessary for single patient use blood lancets to ensure adequacy of the labeling concerning the limitation to single patient use only, effective sharps injury prevention features that disable the lancet from further use (when applicable), and blade dispense release mechanisms on multiple use blood lancets for single patient use only, as well as instructions for a safe blade disposal and cleaning and disinfection for the multiple use blood lancets for single patient use only. These special controls are consistent with the special controls applicable to other similar device technology such as injection needles (Ref. 2). As a result, FDA believes the premarket notification requirement and the established special controls are necessary to provide a reasonable assurance of safety and effectiveness for all for single patient use blood lancets, whether they are used in a home environment or a healthcare setting.

(Comment 3) Several comments stated that the 513(e) Proposed Order, if finalized, would increase the cost of blood lancets for single patient use, putting an undue burden on patients, and would cause what one comment referred to as ''economic driven disruption . . . with lancet access driving use of less expensive devices'' in the wrong setting.

(Response 3) FDA appreciates the economic concerns raised by users of blood lancets regarding the cost of this device; however, reclassification decisions are based on the level of controls necessary to ensure that reasonable assurance of safety and effectiveness requirements under 21 CFR 860.7(d) and (e) as well as section 513(e) of the FD&C Act are met. The regulatory requirements for blood lancets established by FDA are based on the probable benefits to health for the indications for use of blood lancet devices and the risk of the devices when used as intended, and not the costs of the device. FDA also agrees with the findings of the Panel and believes that to mitigate the known risks to health posed by these devices, the proposed special controls are necessary for single patient use only blood lancets, regardless of their environment of use. In addition, FDA believes that manufacturers of single patient use only blood lancets may already be complying with some of the proposed special controls (*e.g.,* biocompatibility testing and package integrity testing) because they are industry standard type tests (Ref. 2). Therefore, FDA does not believe the reclassification of single patient use only blood lancets (subsets 1, 2, or 3) will result in an economic disruption that will affect the availability of or patient access to these devices for these intended purposes.

(Comment 4) Several comments stated that the proposed special controls related to the disinfection of skin and/or reusable device components for single patient use blood lancets (subsets 1, 2, or 3), along with the associated special controls concerning labeling and validation, were either too burdensome or not appropriate. For example, one comment did not understand why disinfection was needed for a single patient home use device; a similar comment felt that cleaning and disinfection validation was overly burdensome for single patient home use devices. A few comments stated that disinfection of the skin would adversely affect blood glucose monitoring by resulting in vasoconstriction. Also, one comment suggested that FDA should not mandate usage of Environmental Protection Agency (EPA) commercially registered disinfectant if a commonly available generic disinfectant agent is equally effective for home use.

(Response 4) FDA believes that the special controls related to the disinfection of reusable device components, along with the associated special controls pertaining to labeling and validation, are appropriate to ensure a reasonable assurance of safety and effectiveness for multiple use blood lancets for single patient use (*i.e.,* subset 3). To reduce the risk of infection, FDA believes that reusable components of single patient use lancets, such as reusable bases, should be adequately cleaned and disinfected (*i.e.,* reprocessed) between uses. Without adequate reprocessing validation conducted initially by the manufacturer for multiple use blood lancets for single patient use under simulated use conditions, it is unclear whether adequate labeling for cleaning and disinfection between uses by the end user can be developed. Further, patient soil (*e.g.,* skin cells, oil, dirt, skin flora, and body fluids such as blood and sweat) can accumulate on the reusable component over time, creating an ideal environment for microbial growth. Although the lancet may be for single patient use, soil can become transferred from the reusable base component to the single-use lancet, thereby posing a risk of infection upon reuse of the device in the same patient.

At the Panel meeting, FDA presented an analysis of the risks to health associated with the use of blood lancets and new scientific data supporting these

risks. Beyond mitigating the risk of infection, the Panel felt that reprocessing validation was necessary to demonstrate the functionality of the device over its lifetime, since the device could degrade when subjected to multiple cleaning and disinfection cycles (Ref. 2). FDA's guidance entitled ''Reprocessing Medical Devices in Health Care Settings: Validation Methods and Labeling'' provides recommendations for validation methods and labeling for proper cleaning of reusable medical devices that are consistent with the special controls in this final order (Ref. 3). Furthermore, the special controls for proper cleaning and disinfection of reusable components in this final order are also consistent with the recommendations in FDA's guidances ''Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use'' and ''Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use,'' which concern devices that are used by some of the same patient populations as those using blood lancets, both in a home use and clinical environment (Refs. 1 and 4).

FDA continues to believe that use of EPA-registered disinfectants is necessary for cleaning and disinfection of the multiple use blood lancets for single patient use even for home use settings. FDA recommends utilizing disinfectants that are effective against bloodborne pathogens, such as Human Immunodeficiency Virus (HIV), Hepatitis B, and Hepatitis C viruses. FDA also recommends the use of EPA-registered disinfectants because they have been demonstrated to be effective against specific bloodborne pathogens when used for specified contact times. EPA-registered disinfectants, which include both commercially registered disinfectants and commonly available generic disinfectant agents, are not allowed to make efficacy claims against specific pathogens unless the EPA has reviewed data to support those claims.

FDA notes that preparation of skin is part of standard patient care prior to drawing blood from patients, and that current guidelines and standards (Refs. 5 and 6) generally include cleaning and disinfection of skin prior to capillary blood sampling. The purpose of this skin preparation step is to prevent infections caused by entry of microbial flora on the patient's skin into the puncture wound created by the blood lancet. Nonetheless, FDA recognizes that the skin preparation procedure may differ depending on the particular application and/or clinical use, and that specific guidelines may exist for skin preparation for certain clinical applications. As such, FDA has revised the special control regarding ''instructions on cleaning and disinfection of the skin to be pierced'' to instead state ''instructions on preparation (*e.g.,* cleaning, disinfection) of the skin to be pierced.''

As a result of the available scientific information, FDA has determined that labeling special controls are necessary to address safety risks associated with use as labeled, and possible misuse, of blood lancets. In particular, it is critical to have specific required labeling special controls related to the preparation of skin and reprocessing of blood lancets for single patient use devices to provide a reasonable assurance of safety and effectiveness.

(Comment 5) Several comments stated that the proposed labeling for single patient use only blood lancet devices is inadequate, overly prescriptive, and/or unnecessary for blood lancets used in home use environments.

(Response 5) FDA continues to believe that the labeling proposed as special controls for single patient use only blood lancets (subsets 1, 2, and 3) are necessary to provide a reasonable assurance of safety and effectiveness for these devices and believes the current labeling for blood lancets is inadequate. At the Panel meeting, FDA presented an analysis of the risks to health associated with the use of blood lancets and new scientific data supporting these risks. In the data that was presented, it was shown that the risk of bloodborne pathogen transmission was related to the improper use of blood lancets. FDA believes that additional labeling is needed to address this safety risk associated with misuse of blood lancets, including detailed descriptions of the proper use of the device and any sharps injury prevention feature, hand washing instructions for the user before and after use of the device, instructions on cleaning and disinfection of the device and to the skin to be pierced, and instructions for the safe disposal of the device (Ref. 2). For each environment of use for blood lancets, adequate labeling must be included to address either use of these devices in healthcare settings or labeling for home use that is written for the end users to be able to understand and follow the instructions.

FDA has determined that general controls alone are not sufficient to provide a reasonable assurance of safety and effective for these devices (subsets 1, 2, and 3), and there is sufficient information to establish special controls to provide such an assurance; therefore, FDA is reclassifying these devices into class II (81 FR 11140 at 11142). The Panel consensus was that single patient use only blood lancets meet the statutory definition of a class II device and require labeling special controls related to the cleaning and disinfection of skin and blood lancets for single patient use devices to reasonably assure safety and effectiveness.

(Comment 6) Some comments stated that the proposed 180-day timeframe is too short for manufacturers of single patient use blood lancets (subsets 1 to 3) to demonstrate conformance with the required special controls and submit a premarket notification (510(k)). The comments recommended timeframes ranging from 1 to 2 years for the submission of new 510(k)s for these types of blood lancets.

(Response 6) FDA agrees with the commenters' concern that its proposal to not enforce compliance with the 510(k) requirement or special controls for single patient use only blood lancets until 180 days after the effective date of the final order may not be enough time for all manufacturers of single patient use blood lancets to implement the required special controls and receive 510(k) clearance for those devices without prior 510(k) clearance. The typical review time for a 510(k) is 90 days. However, if a 510(k) submission lacks the information necessary for the Agency to continue or complete review, FDA may issue a request for additional information to the submitter and place the 510(k) on hold pending receipt of a complete response to the identified deficiencies. FDA's current policy is to allow a sponsor 180 days to respond to a request for additional information,[1] resulting in a maximum review time of 270 days. Therefore, even if a submission were made on the effective date, there could be instances where a 510(k) submission would remain pending beyond 180 days after the effective date of the final order. FDA, therefore, does not intend to enforce compliance with the 510(k) requirement or special controls until 1 year after the effective date of this final order for blood lancets for single patient use only that have been offered for sale prior to the publication of this final order but do not already have a 510(k) clearance.

(Comment 7) There were several comments relating to the Unique Device Identification labeling and data submission requirements. These requirements apply to all devices in commercial distribution as of their established Unique Device

[1] See page 6 of Guidance for Industry and Food and Drug Administration Staff entitled ''FDA and Industry Actions on Premarket Notification (510(k)) Submissions: Effect on FDA Review Clock and Goals'', available at *https://www.fda.gov/media/73507/download.*

Identification compliance date unless an exception or alternative applies. For those blood lancets that have been offered for sale prior to November 22, 2021, the comments: (1) Expressed concerns that the Unique Device Identification compliance date for class II and class III devices will have already passed when this order is published, and insufficient time will be provided to allow for compliance; (2) requested that a period of 2 or 3 years be provided for compliance with Unique Device Identification requirements; and (3) pointed out that industry anticipated that their class I devices would use the product's Universal Product Code (UPC) for purposes of unique device identifier (UDI) implementation as permitted under § 801.40(d) (21 CFR 801.40(d)), and that FDA has not provided a reasonable basis to remove these devices from this provision. These comments further requested that FDA grant a general exception or alternative to allow the devices subject to this order, regardless of their classification, to utilize their UPCs as their UDIs.

(Response 7) There are three principal elements to Unique Device Identification requirements: Labeling with a UDI, direct marking of devices that are intended to be used more than once and intended to be reprocessed between uses, and data submission to the Global Unique Device Identification Database (GUDID) (see § 801.20, 801.45, and 830.300 (21 CFR 801.20, 801.45, and 830.300)). In addition, the Unique Device Identification final rule (78 FR 58786, September 24, 2013) (UDI Rule) added § 801.18 (21 CFR 801.18), which requires certain dates on device labels to be in a standard format. As explained in the preamble to the UDI Rule, FDA aligned the compliance date for standard date format requirements under § 801.18 with the compliance date by which a device must bear a UDI on its label and packages under § 801.20 to avoid the need to make changes to a device label more than once to implement the requirements in the final rule.[2] FDA disagrees 2 or 3 years is necessary for compliance with Unique Device Identification labeling and data submission requirements. Rather, FDA considered the commenters' request for additional time for compliance with UDI requirements and believes that the compliance timeframes set forth in section VI of this order provide sufficient time for manufacturers to perform all the functions required to comply with UDI labeling and data submission requirements, including converting manufacturing processes and associated inventory management, and submitting required information to GUDID. In addition, manufacturers should consult existing UDI compliance policies, which may be applicable to their reclassified devices. FDA's publicly available UDI web page [3] contains a comprehensive listing of UDI guidance documents and compliance policies.

FDA also disagrees that manufacturers of blood lancets should be permitted to utilize their UPCs as their UDIs. As indicated in the preamble to the UDI Rule (78 FR 58786 at 58798) the exception in § 801.40(d) was purposely limited to class I devices due to their relative low risk. For the reasons stated in the preamble to this order, FDA no longer considers the blood lancet devices to be low risk and is reclassifying them into class II and class III. Therefore, the exception in § 801.40(d) will no longer apply to these devices, and FDA does not believe that a general exception or alternative to the UDI labeling requirements would not be appropriate. An individual labeler that believes a UPC rather than a UDI on its device label would provide for more accurate, precise, or rapid device identification or would better ensure the safety or effectiveness of the device, may submit a request for an alternative under 21 CFR 801.55.

(Comment 8) Several comments stated that the proposed special controls are unclear and unnecessary for blood lancets for single patient use blood lancets. Other comments specifically requested clarification of the following special controls: (1) Design characteristics related to single use only blood lancets without an integral sharp injury prevention, (2) possible recognized consensus standards for mechanical performance testing, (3) sterility testing for the lancet only, and (4) FDA identification of recognized consensus standards for biocompatibility testing and clarification on whether testing should be completed for the finished product or only the lancet.

(Response 8) FDA continues to believe that special controls are necessary for single patient use only blood lancets. At the Panel meeting, FDA presented an analysis of the risks to health associated with the use of blood lancets and new scientific data supporting these risks. These risks to health are summarized in tables 1 to 3 of the 513(e) Proposed Order (81 FR 11140 at 11147). After deliberation, the Panel concluded that the risks to health warranted reclassification of blood lancets from class I devices, as general controls were deemed insufficient to provide a reasonable assurance of safety and effectiveness. The proposed special controls are intended to inform manufacturers of the testing and information FDA believes to be necessary to provide a reasonable assurance of safety and effectiveness during the use of blood lancets, including single patient use only blood lancets.

FDA understands the confusion regarding the special control for single use only blood lancets without an integral sharps injury prevention feature regarding design to prevent sharp object injuries. The special controls for single patient use only blood lancets established by this final order are necessary to provide a reasonable assurance of safety and effectiveness for those devices. Each subset of blood lancets presents similar risks to health, but requires different special controls due to their different design characteristics and risk profiles. Design characteristics for blood lancets without an integral sharp injury prevention feature must still address the risks of sharp object injuries and bloodborne pathogen transmissions (see § 878.4850(b)(2)(i)). Examples of how this could be achieved include, but may not be limited to, the inclusion of a cap or blade cover. As described in the 513(e) Proposed Order (81 FR 11140) and adopted in this final order, these risks are also mitigated by mechanical performance testing to prevent device breakage and labeling. FDA believes that to satisfy the mechanical testing special control manufacturers must demonstrate injury prevention features (as applicable) and blade performance in single use single patient devices (see § 878.4850(a)(2)(ii) and (b)(2)(ii)); however, there is currently no FDA-recognized consensus standard for mechanical tests, methods, or acceptance criteria for this device type.

At the Panel meeting, FDA presented an analysis of the risks to health associated with the use of blood lancets and new scientific data supporting these risks. FDA believes that reusable components of single patient use devices, such as reusable bases, should be adequately cleaned and disinfected (*i.e.,* reprocessed) between uses in order to prevent risk of infection. Sterility testing is applicable to any device component that breaches the skin, thereby contacting the underlying sterile tissue and/or blood in order to mitigate the risk of infection. While this requirement commonly applies to the blade of the blood lancet device, it may be possible for other components of a

[2] See 78 FR 58786 at 58795, September 24, 2013.

[3] Available at: *https://www.fda.gov/udi.*

blood lancet besides a ''blade'' to breach the skin. Therefore, FDA has determined that the sterility special control should be revised to clearly state that this special control applies to ''any device component that breaches the skin (*e.g.,* the blade)'' for the three single patient use subtypes of blood lancets. The special control for biocompatibility testing must be conducted on the final finished form for the finished blood lancet device and is important to address the risk of adverse tissue reaction (not infection).

Manufacturers are encouraged to review the relevant FDA guidance documents including, but not limited to the ''Submission and Review of Sterility Information in Premarket Notification (510(k)) Submissions for Devices Labeled as Sterile'' (Ref. 7) and ''Use of International Standard ISO 10993–1, Biological Evaluation of Medical Devices-Part 1: Evaluation and Testing Within a Risk Management Process'' (Ref. 8) for recommendations on how to comply with the special control testing requirements.

Evidence of compliance with the special controls is required to demonstrate reasonable assurance of safety and effectiveness and to support 510(k) clearance. As stated above, FDA does not intend to enforce compliance with the premarket notification (510(k)) requirement and special controls for blood lancets for single patient use only that have been offered for sale prior to the publication of this final order but do not already have a 510(k) clearance. However, 1 year after the effective date of this order, any: (1) Single use only blood lancet with an integral sharps injury prevention feature that does not comply with the special controls established in § 878.4850(a)(2), (2) single use only blood lancet without an integral sharps injury prevention feature that does not comply with the special controls established in § 878.4850(b)(2), or (3) multiple use blood lancet for single patient use only established in § 878.4850(c)(2), will be considered adulterated and misbranded (sections 501(f)(1)(B) and 502(o) of the FD&C Act (21 U.S.C. 351(f)(1)(B) and 352(o))) until such time as the device complies with the special controls and any premarket notification requirements.

(Comment 9) A comment stated that currently marketed blood lancets should be exempt from design controls because the safety concerns raised by those single patient use devices are related to the labeling and the use of blood lancets generally and not with the design of the device. Instead the comment suggests a phased-in approach for design control compliance for currently marketed devices, depending on whether they meet the requirements pursuant to § 807.81(a)(3) (21 CFR 807.81(a)(3)).

(Response 9) FDA disagrees with this comment. The lancet blade is designed to pierce the skin and draw blood and can present a puncture hazard to anyone coming into contact with the device when the blade is accessible. This hazard is associated with serious risks as described in the 513(e) Proposed Order (81 FR 11140). Without the application of design controls (21 CFR 820.30), FDA is unable to verify that appropriate controls are in place to ensure that blood lancet devices are designed and tested in such a way as to perform as intended under the labeled conditions of use, and to provide a reasonable assurance of safety and effectiveness. Therefore, FDA does not intend to allow a phased-in approach for design control compliance of currently marketed single patient use blood lancets.

(Comment 10) A comment stated that the single patient use only blood lancet devices should be exempt from premarket notification under section 510(m) of the FD&C Act (21 U.S.C. 360(m)) and suggested that special controls could be documented in the Design History File (DHF) for FDA's review during routine audits/inspections.

(Response 10) FDA does not agree that it is appropriate to exempt single patient use only blood lancets from premarket notification at this time. Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance that the Agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff'' (Class II 510(k) Exemption Guidance) (Ref. 9). Based on the scientific information available to the Agency at this time and summarized in the 513(e) Proposed Order, FDA has determined these factors currently are not met for single patient use only blood lancet devices and that premarket notification is necessary to provide reasonable assurance of safety and effectiveness for all three types of single patient use blood lancets.

FDA also does not agree with the comment that the Agency should only review the DHF for a single patient use only blood lancet device to determine whether there exists a reasonable assurance of safety and effectiveness for the device. Under 21 CFR 820.3 a DHF is a compilation of records that describes the design history of a finished device based on the quality system regulations. Although a manufacturer of a legally marketed device is required to keep a DHF for the device's design control requirements, FDA usually does not review the DHF until postmarket surveillance inspections of a class II device. For single patient use only blood lancet devices, based on the scientific evidence available to the Agency, FDA believes in order for the Agency to determine whether there exists a reasonable assurance of safety and effective for a device, it is necessary for compliance with the special controls to be assessed prior to the device entering the market.

(Comment 11) A comment recommended that FDA create a separate regulatory classification category for ''flat, stainless steel'' blood lancets in class I.

(Response 11) FDA disagrees that a separate regulatory classification is needed for flat, stainless steel blood lancets in class I. FDA believes that the four subsets of lancets identified in this final order encompass flat, stainless steel blood lancets; that is, a flat, stainless steel blood lancet can be appropriately categorized in any of these four subsets based on its intended use (*e.g.,* single vs. multiple use) and design characteristics (*e.g.,* presence or lack of a sharps injury prevention feature). Furthermore, at this time, FDA finds that the same risks to health (*e.g.,* bloodborne pathogen transmission, local tissue infections, adverse tissue reactions) described herein for blood lancets apply to flat, stainless steel blood lancets. Therefore, FDA finds that a separate categorization for flat stainless steel blood lancets in class I is neither necessary nor appropriate at this time.

(Comment 12) One comment suggested FDA allow a bundling of several devices with the same intended use for a 510(k) submission.

(Response 12) Bundling refers to the inclusion of multiple devices or multiple indications for use for a device in a single premarket submission, including products subject to the device and biologics license application (BLA) authorities, for purposes of review and user fee payment. Multiple devices may include different models within a generic type of device (21 CFR 860.3) or

devices that are of differing generic types. Under the current review process for the Center for Devices and Radiological Health (CDRH), bundling of multiple devices or indications for use are acceptable for 510(k) submission when the devices present scientific and regulatory issues that can most efficiently be addressed during the course of one premarket review (Ref. 10). CDRH will make a determination of acceptable bundling of devices on a case-by-case basis.

(Comment 13) Some comments stated that all multiple use lancets should be class III.

(Response 13) FDA disagrees with this comment. FDA believes the regulatory requirements for blood lancets should be based upon the indications for use of the device and the risk of the device when used as intended. After reviewing the new scientific data supporting the identified risks to health, the Panel recommended that reclassifying subset 3, multiple use for single patient use blood lancets from class I (general controls) to class II (special controls) because multiple use blood lancet devices for single use patients do not present a potential unreasonable risk of illness or injury due to the inherent and significantly increased risk of bloodborne pathogen transmission as compared to multiple patient blood lancets (Ref. 2). As stated above in response to Comment 2 in this section and in the 513(e) Proposed Order (81 FR 11140 at 11148), FDA believes sufficient information exists to establish special controls for mitigating the risks to health for subset 3 (multiple use for single patient use only blood lancets) to provide a reasonable assurance of safety and effectiveness of the device. Because multiple use blood lancets for multiple patient use present a potential unreasonable risk of illness or injury and insufficient information exists to establish special controls for multiple use blood lancets for multiple patient use, FDA reclassified the device into class III.

(Comment 14) Some comments stated that the wording of the subtypes in the 513(e) Proposed Order were unclear and should be revised to distinguish between lancets and lancing medical devices.

(Response 14) FDA understands the concerns of the commenter and is providing in this final order language to explain whether blades are attached to the base in each of the four subsets of blood lancets. The base and blade combine to create the complete lancet. For subset 1 and 2 lancets, the blade is attached to the base with the entire unit being single use. In subset 3 and 4 lancets, single use blades are attached to a multiuse base where the blade is discarded after each use, but each subset has a different labeling requirement. By definition, subsets 1 and 2 blood lancets do not have a blade that can be used independently of the base. Furthermore, FDA provides clear descriptions of special controls that apply to each component for subsets 1, 2, and 3. As discussed at the Panel, multiple use lancets for multiple patients present an unreasonable risk of illness or injury due to the inherent and significantly increased risk of bloodborne pathogen transmission and are therefore reclassified into class III. Therefore, FDA believes that the blood lancet definitions presented during the Panel meeting and provided in the 513(e) Proposed Order are complete and adequate.

(Comment 15) Comment stated that FDA's increase of postmarket surveillance of blood glucose meter accuracy would provide greater impact on mitigating cross-contamination opportunities than reclassification of blood lancets.

(Response 15) Postmarket surveillance of blood glucose meter accuracy is outside the scope of this regulatory action.

## IV. The Final Order

Under section 513(e) of the FD&C Act, FDA is adopting its findings as published in the preamble to the 513(e) Proposed Order for these devices (81 FR 11140). FDA is issuing this final order to reclassify single patient use only blood lancets devices from class I (general controls) exempt from premarket notification into class II (special controls) and subject to premarket review.[4] FDA is reclassifying these devices based on the determination that general controls are insufficient to provide a reasonable assurance of safety and effectiveness for blood lancets and there is sufficient information to establish special controls to provide such assurance for single patient use only blood lancets (subsets 1 to 3). FDA is also establishing special controls for each type of single patient use only blood lancet, which are set forth in § 878.4850(a)(2)(i) through (vi) for single use only blood lancet with an integral sharps injury prevention feature, § 878.4850(b)(2)(i) through (vi) for single use only blood lancet without an integral sharps injury prevention feature, and § 878.4850(c)(2)(i) through (vii) for multiple use blood lancet for single patient use only. FDA also intends not to enforce compliance with this final order until 1 year after its effective date for manufacturers of blood lancets for single patient use only that are currently marketed for sale prior to the publication of this final order, but do not already have a 510(k) clearance.

FDA is also issuing this final order to reclassify multiple use blood lancets for multiple patient use from class I (general controls) exempt from premarket notification into class III (premarket approval). FDA is reclassifying these devices based on the determination that general controls and special controls together are not sufficient to provide reasonable assurance of safety and effectiveness for this device. In addition, in the absence of an established positive benefit-risk profile, FDA has determined that the risks to health associated with the use of multiple patient use blood lancets identified previously present a potential unreasonable risk of illness or injury. Elsewhere in this issue of the **Federal Register**, FDA has published a final order requiring the filing of a PMA or notice of completion of a PDP for multiple patient use blood lancets.

FDA has also modified the identification in § 878.4800(a) for manual surgical instruments for general use to remove the blood lancet devices from this classification regulation and include them under a separate classification regulation § 878.4850.

## V. Premarket Notification Requirement for Single Patient Use Only Blood Lancets

FDA is reclassifying single patient use only blood lancets from class I (general controls) exempt from premarket notification into class II (special controls) and subject to premarket review. Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide reasonable assurance of safety and effectiveness for the intended uses of all three types of single patient use only blood lancets. Therefore, these three device types are not exempt from premarket notification requirements.

[4] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the **Federal Register** Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

FDA cleared several 510(k)s for blood lancets prior to exempting the device types from submission of a premarket notification. These cleared blood lancets, as well as any 510(k)-exempt blood lancets legally offered for sale on or before November 22, 2021, can serve as predicates for substantial equivalence purposes. In order for a single patient use only blood lancet to fall within this classification, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order.

## VI. Implementation Strategy

For the three types of blood lancets being reclassified from class I (general controls) to class II (special controls), the special controls identified in this order are effective November 22, 2021. For the fourth type of blood lancet being reclassified from class I to class III, FDA is publishing a final order to require the filing of a PMA or notice of completion of a PDP elsewhere in this issue of the **Federal Register**.

- Blood lancets for single patient use only that have not been offered for sale prior to November 22, 2021, or have been offered for sale but are required to submit a new 510(k) under § 807.81(a)(3): Manufacturers are required to obtain 510(k) clearance before marketing their devices after November 22, 2021. If a manufacturer markets such a device without receiving 510(k) clearance, then FDA would consider taking action against such a manufacturer, under its usual enforcement policies.
- Blood lancets for single patient use only that have been offered for sale prior to November 22, 2021, and do not already have 510(k) clearance: FDA does not intend to enforce compliance with the 510(k) requirement or special controls until November 22, 2022. After that date, if a manufacturer continues to market such a device but does not have a 510(k) clearance or FDA determines that the device is not substantially equivalent or not compliant with the special controls, then FDA would consider taking action against such manufacturer under its usual enforcement policies.

For blood lancets for single patient use that have prior 510(k) clearance, FDA would accept a new 510(k) and would issue a new clearance letter, as appropriate, indicating substantial equivalence and compliance with the special controls. These devices could serve as predicates for new devices. These clearance letters would be made publicly available in FDA's 510(k) database, and compliance with special controls at the time of clearance would be stated in the publicly available 510(k) Summary posted in this database. Because many blood lancets for single patient use are non-prescription (''over-the-counter'') devices, FDA believes that our public database is a transparent tool allowing consumers to confirm that their devices have been submitted under a new 510(k) and demonstrated conformance to the applicable special controls.

The timeframes set forth in this section also apply to compliance with requirements for device labeling (part 801 (21 CFR part 801)), including the UDI labeling requirements (part 801, subpart B), as well as device tracking requirements (21 CFR part 821), device reporting requirements (21 CFR part 803), and GUDID data submission requirements (21 CFR part 830).

## VII. Codification of Orders

Prior to the amendments by the Food and Drug Administration Safety and Innovation Act (FDASIA), section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices. Although section 513(e) as amended requires FDA to issue final orders rather than regulations, FDASIA also provides for FDA to revoke previously issued regulations by order. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as changes to codified classification determinations or as newly codified orders. Therefore, under section 513(e)(1)(A)(i) of the FD&C Act, as amended by FDASIA, in this final order, we are revoking the requirements in 21 CFR 878.4800 related to the classification of blood lancets as class I devices and codifying the reclassification of four types of blood lancets in 21 CFR 878.4850: Single use only blood lancets with an integral sharps injury prevention feature, single use only blood lancets without an integral sharps injury prevention feature, and multiple use blood lancets for single patient use only into class II, and multiple use blood lancet for multiple patient use into class III.

## VIII. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## IX. Paperwork Reduction Act of 1995

While this final order contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this final order. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 830 have been approved under OMB control number 0910–0720; and the collections of information in 21 CFR parts 800, 801 and 809 have been approved under OMB control number 0910–0485.

The labeling provisions in proposed § 878.4850(a)(2)(vi), (b)(2)(vi), and (c)(2)(vii) are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA. Rather, the following labeling: (1) ''For use only on a single patient. Discard the entire device after use.''; (2) ''For use only on a single patient. Disinfect reusable components according to manufacturer's instructions between each use.''; (3) ''Used lancet blades must be safely discarded after a single use.''; (4) ''Warning: Not intended for more than one use. Do not use on more than one patient. Improper use of blood lancets can increase the risk of inadvertent transmission of bloodborne pathogens, particularly in settings where multiple patients are tested.''; and (5) ''Warning: Do not use on more than one patient. Improper use of blood lancets can increase the risk of inadvertent transmission of bloodborne pathogens, particularly in settings where multiple patients are tested. The cleaning and disinfection instructions for this device are intended only to reduce the risk of local use site infection; they cannot render this device safe for use for more than one patient.'' are a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

## X. References

The following references marked with an asterisk (*) are on display at the

Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500. and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.


1. *FDA Guidance for Industry and FDA Staff, ''Self-Monitoring Blood Glucose Test Systems for Over-the-Counter Use,'' September 2020, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/self-monitoring-blood-glucose-test-systems-over-counter-use.*
2. *Executive Summary, Transcript and other meeting material of the June 26, 2013, meeting of the General and Plastic Surgery Devices Panel available at *https://wayback.archive-it.org/7993/20170405193132/https:/www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/GeneralandPlasticSurgeryDevicesPanel/ucm349426.htm.*
3. *FDA Guidance for Industry and FDA Staff, ''Reprocessing Medical Devices in Health Care Settings: Validation Methods and Labeling,'' March 17, 2015, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/reprocessing-medical-devices-health-care-settings-validation-methods-and-labeling.*
4. *FDA Guidance for Industry and FDA Staff, ''Blood Glucose Monitoring Test Systems for Prescription Point-of-Care Use,'' September 2020, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/blood-glucose-monitoring-test-systems-prescription-point-care-use.*
5. *The World Health Organization (WHO) Guidelines on Drawing Blood: Best Practices in Phlebotomy, Part II, 2, Geneva: World Health Organization, 2010, available at *https://www.ncbi.nlm.nih.gov/books/NBK138665/.*
6. Clinical Laboratory Standards Institute (CLSI), GP42 7th Edition, Collection of Capillary Blood Specimens.
7. *FDA Guidance for Industry and FDA Staff, ''Submission and Review of Sterility Information in Premarket Notification (510(k)) Submissions for Devices Labeled as Sterile,'' January 21, 2016, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/submission-and-review-sterility-information-premarket-notification-510k-submissions-devices-labeled.*
8. *FDA Guidance for Industry and FDA Staff, ''Use of International Standard ISO 10993–1, Biological Evaluation of Medical Devices—Part 1: Evaluation and Testing Within a Risk Management Process,'' September 2020, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/use-international-standard-iso-10993-1-biological-evaluation-medical-devices-part-1-evaluation-and.*
9. *''Procedures for Class II Device Exemptions from Premarket Notification,'' Guidance for Industry and CDRH Staff (Class II 510(k) Exemption Guidance), February 19, 1998, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/procedures-class-ii-device-exemptions-premarket-notification-guidance-industry-and-cdrh-staff.*
10. *FDA Guidance for Industry and FDA Staff, ''Bundling Multiple Devices or Multiple Indications in a Single Submission,'' June 20, 2007, available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/bundling-multiple-devices-or-multiple-indications-single-submission.*


**List of Subjects in 21 CFR Part 878**

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

## PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for part 878 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Amend § 878.4800 by revising paragraph (a) to read as follows:

**§ 878.4800 Manual surgical instrument for general use.**

(a) *Identification.* A manual surgical instrument for general use is a nonpowered, hand-held, or hand manipulated device, either reusable or disposable, intended to be used in various general surgical procedures. The device includes the applicator, clip applier, biopsy brush, manual dermabrasion brush, scrub brush, cannula, ligature carrier, chisel, clamp, contractor, curette, cutter, dissector, elevator, skin graft expander, file, forceps, gouge, instrument guide, needle guide, hammer, hemostat, amputation hook, ligature passing and knot-tying instrument, knife, mallet, disposable or reusable aspiration and injection needle, disposable or reusable suturing needle, osteotome, pliers, rasp, retainer, retractor, saw, scalpel blade, scalpel handle, one-piece scalpel, snare, spatula, stapler, disposable or reusable stripper, stylet, suturing apparatus for the stomach and intestine, measuring tape, and calipers. A surgical instrument that has specialized uses in a specific medical specialty is classified in separate regulations in parts 868 through 892 of this chapter.

* * * * *

■ 3. Add § 878.4850 to subpart E to read as follows:

**§ 878.4850 Blood lancets.**

(a) *Single use only blood lancet with an integral sharps injury prevention feature*—(1) *Identification.* A disposable blood lancet intended for a single use that is comprised of a single use blade attached to a solid, non-reusable base (including an integral sharps injury prevention feature) that is used to puncture the skin to obtain a drop of blood for diagnostic purposes. The integral sharps injury prevention feature allows the device to be used once and then renders it inoperable and incapable of further use.

(2) *Classification.* Class II (special controls). The special controls are:

(i) The design characteristics of the device must ensure that the structure and material composition are consistent with the intended use and must include a sharps injury prevention feature.

(ii) Mechanical performance testing must demonstrate that the device will withstand forces encountered during use and that the integral sharps injury prevention feature will irreversibly disable the device after one use.

(iii) The device must be demonstrated to be biocompatible.

(iv) Sterility testing must demonstrate the sterility of any device component that breaches the skin (*e.g.,* blade).

(v) Labeling must include:

(A) Detailed descriptions, with illustrations, of the proper use of the device and its sharps injury prevention feature.

(B) Handwashing instructions for the user before and after use of the device.

(C) Instructions on preparation (*e.g.,* cleaning, disinfection) of the skin to be pierced.

(D) Instructions for the safe disposal of the device.

(E) Labeling must be appropriate for the intended use environment.

(*1*) For those devices intended for health care settings, labeling must address the health care facility use of these devices, including how these lancets are to be used with personal protective equipment, such as gloves.

(*2*) For those devices intended for use in the home, labeling must be written so that it is understandable to lay users.

(vi) Labeling must also include the following statements, prominently placed:

(A) ''For use only on a single patient. Discard the entire device after use.''

(B) ''Warning: Not intended for more than one use. Do not use on more than one patient. Improper use of blood lancets can increase the risk of inadvertent transmission of bloodborne pathogens, particularly in settings where multiple patients are tested.''

(b) *Single use only blood lancet without an integral sharps injury prevention feature*—(1) *Identification.* A disposable blood lancet intended for a single use that is comprised of a single use blade attached to a solid, non-reusable base that is used to puncture the skin to obtain a drop of blood for diagnostic purposes.

(2) *Classification.* Class II (special controls). The special controls are:

(i) The design characteristics of the device must ensure that the structure and material composition are consistent with the intended use and address the risk of sharp object injuries and bloodborne pathogen transmissions.

(ii) Mechanical performance testing must demonstrate that the device will withstand forces encountered during use.

(iii) The device must be demonstrated to be biocompatible.

(iv) Sterility testing must demonstrate the sterility of any device component that breaches the skin (*e.g.,* blade).

(v) Labeling must include:

(A) Detailed descriptions, with illustrations, of the proper use of the device.

(B) Handwashing instructions for the user before and after use of the device.

(C) Instructions on preparation (*e.g.,* cleaning, disinfection) of the skin to be pierced.

(D) Instructions for the safe disposal of the device.

(E) Labeling must be appropriate for the intended use environment.

(*1*) For those devices intended for health care settings, labeling must address the health care facility use of these devices, including how these lancets are to be used with personal protective equipment, such as gloves.

(*2*) For those devices intended for use in the home, labeling must be written so that it is understandable to lay users.

(vi) Labeling must also include the following statements, prominently placed:

(A) ''For use only on a single patient. Discard the entire device after use.''

(B) ''Warning: Not intended for more than one use. Do not use on more than one patient. Improper use of blood lancets can increase the risk of inadvertent transmission of bloodborne pathogens, particularly in settings where multiple patients are tested.''

(c) *Multiple use blood lancet for single patient use only*—(1) *Identification.* A multiple use capable blood lancet intended for use on a single patient that is comprised of a single use blade attached to a solid, reusable base that is used to puncture the skin to obtain a drop of blood for diagnostic purposes.

(2) *Classification.* Class II (special controls). The special controls are:

(i) The design characteristics of the device must ensure that:

(A) The lancet blade can be changed with every use, either manually or by triggering a blade storage unit to discard the used blade and reload an unused blade into the reusable base; and

(B) The structure and material composition are consistent with the intended use and address the risk of sharp object injuries and bloodborne pathogen transmissions and allow for validated cleaning and disinfection.

(ii) Mechanical performance testing must demonstrate that the device will withstand forces encountered during use.

(iii) The device must be demonstrated to be biocompatible.

(iv) Sterility testing must demonstrate the sterility of any device component that breaches the skin (*e.g.,* blade).

(v) Validation testing must demonstrate that the cleaning and disinfection instructions are adequate to ensure that the reusable lancet base can be cleaned and low level disinfected.

(vi) Labeling must include:

(A) Detailed descriptions, with illustrations, of the proper use of the device.

(B) The Environmental Protection Agency (EPA) registered disinfectant's contact time for disinfectant use.

(C) Handwashing instructions for the user before and after use of the device.

(D) Instructions on preparation (*e.g.,* cleaning, disinfection) of the skin to be pierced.

(E) Instructions on the cleaning and disinfection of the device.

(F) Instructions for the safe disposal of the device.

(G) Instructions for use must address the safe storage of the reusable blood lancet base between uses to minimize contamination or damage and the safe storage and disposal of the refill lancet blades.

(H) Labeling must be appropriate for the intended use environment.

(*1*) For those devices intended for health care settings, labeling must address the health care facility use of these devices, including how these lancets are to be used with personal protective equipment, such as gloves.

(*2*) For those devices intended for use in the home, labeling must be written so that it is understandable to lay users.

(vii) Labeling must also include the following statements, prominently placed:

(A) ''For use only on a single patient. Disinfect reusable components according to manufacturer's instructions between each use.''

(B) ''Used lancet blades must be safely discarded after a single use.''

(C) ''Warning: Do not use on more than one patient. Improper use of blood lancets can increase the risk of inadvertent transmission of bloodborne pathogens, particularly in settings where multiple patients are tested. The cleaning and disinfection instructions for this device are intended only to reduce the risk of local use site infection; they cannot render this device safe for use for more than one patient.''

(d) *Multiple use blood lancet for multiple patient use*—(1) *Identification.* A multiple use capable blood lancet intended for use on multiple patients that is comprised of a single use blade attached to a solid, reusable base that is used to puncture the skin to obtain a drop of blood for diagnostic purposes.

(2) *Classification.* Class III (premarket approval).

Dated: November 16, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021–25376 Filed 11–19–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2021–0077]**

**RIN 1625–AA11**

## Regulated Navigation Area; Biscayne Bay Causeway Island Slip, Miami Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a Regulated Navigation Area over certain navigable waters of the Biscayne Bay Causeway Island Slip, immediately west of the Coast Guard Base Miami Beach, Miami Beach, FL. This action is necessary to provide for the safety of life and federal property on

this navigable water. This rulemaking will require all persons and vessels to transit the Regulated Navigation Area at a speed that creates minimum wake, seven miles per hour or less, to safeguard damage to Coast Guard assets, disrupting operations, and/or injuring Coast Guard personnel. Additionally, this rulemaking will prohibit vessels from passing other vessels making way within the regulated area.

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

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0077 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 Omar Beceiro, Sector Miami Waterways Management Division, Coast Guard at 305–535–4317 or by email *Omar.Beceiro@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

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

## II. Background Information and Regulatory History

In October 2020, the Fisher Island Ferry Communities Association relocated its ferry terminal to the Biscayne Bay Causeway Island Slip (Slip), west of the Coast Guard Base Miami Beach, Miami Beach, FL. The Slip is the primary terminal for the movement of residents, workers, and goods from Terminal Island to Fisher Island. Prior to October 2020, maritime traffic in the Biscayne Bay Causeway Island Basin (Basin) was limited in scope to occasional private yachts and Coast Guard assets. The addition of ferry traffic at the Slip has resulted in a substantial increase in maritime traffic in the Basin. The Basin has a length of approximately 380 yards and a width of approximately 97 yards. The increase in traffic, particularly of the Fisher Island Ferry, presents a hazard to Coast Guard assets operating in the Basin as the ferries occasionally pass within the Basin, dangerously close to Coast Guard assets. Additionally, and particularly when passing within the Basin, the ferries create a disrupting, and at times dangerous wake, adversely affecting Coast Guard routine operations and personnel. The passing maneuvers and resultant wake also create hazardous conditions during certain cutter operations, such as onloading and offloading of ammunition or refueling. The Coast Guard's Seventh District Commander has determined the increased ferry traffic, passing maneuvers, and resultant wake presents a safety and operational concern to Coast Guard personnel and assets moored in the Biscayne Bay Causeway Island Basin.

In response, on April 14, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled, ''Regulated Navigation Area: Biscayne Bay Causeway Island Slip, Miami Beach, FL'' (86 FR 19599). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this Regulated Navigation Area. During the comment period that ended May 14, 2021, we received 0 comments.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Coast Guard's Seventh District Commander has determined that potential hazards associated with the increased maritime traffic in the Biscayne Bay Causeway Island Basin (Basin), where ferries occasionally pass within the Basin dangerously close to Coast Guard assets, is a safety and operational concern. The purpose of this regulation is to ensure navigational safety, protection of Coast Guard assets and personnel, and to facilitate safe execution of Coast Guard statutory missions.

## IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on the NPRM published April 14, 2021. We are making one change in the regulatory text. We discovered that the section number in the CFR, 33 CFR 165.789 is already in use. Section 165.789 contains a safety zone regulation. Therefore, we are revising the section number for this Regulated Navigation Area in the final rule regulatory text. We are deleting ''165.789,'' and replacing it with ''165.790.''

This rule establishes a permanent Regulated Navigation Area that will require all persons and vessels to transit the regulated area at a speed that creates minimum wake, seven miles per hour or less, to safeguard damage to Coast Guard assets, disrupting operations, and/or injuring Coast Guard personnel. Additionally, this rule will prohibit vessels from passing other vessels making way within the regulated area. This Regulated Navigation Area covers all navigable waters within the Biscayne Bay Causeway Island Slip, immediately west of the Coast Guard Base Miami Beach, Miami Beach, FL.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, and location of the Regulated Navigation area. The Regulated Navigation Area will only affect vessels entering, and passing within, the Biscayne Bay Causeway Island Slip in Miami Beach, Miami Beach, FL. Vessels will continue to operate within the Biscayne Bay Causeway Island Slip with the only restriction being the requirement to operate at speeds below seven miles per hour and avoid passing other vessels making way within the regulated area. Moreover, upon activating the Regulated Navigation Area, the Coast Guard will notify the local maritime community through various means including, Local Notice to Mariners and Broadcast Notice to Mariners issued on VHF–FM marine radio channel 16.

### *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 0 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 the Regulated Navigation Area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a Regulated Navigation Area requiring all persons and vessels to transit the regulated area at a speed that creates minimum wake, seven miles or less, and to avoid passing other vessels making way within the regulated area. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A 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 AREA; BISCAYNE BAY CAUSEWAY ISLAND SLIP, MIAMI BEACH, FL

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

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

■ 2. Add § 165.790 to read as follows:

### § 165.790 Regulated Navigation Area; Biscayne Bay Causeway Island Slip, Miami Beach, FL.

(a) *Regulated area.* The following area is a Regulated Navigation Area: All waters of Biscayne Bay Causeway Island Slip within the following points: Beginning at Point 1 in position 25°46′18″ N, 080°08′50″ W; thence east to Point 2 in position 25°46′19″ N, 080°08′47″ W; thence southeast to Point 3 in position 25°46′10″ N, 080°08′41″ W; thence west to Point 4 in position 25°46′10″ N, 080°08′45″ W; thence back to origin at Point 1.

(b) *Applicability.* This section applies to all vessels operating within the RNA, except vessels that are engaged in law enforcement or search and rescue operations.

(c) *Regulations.* (1) The general regulations governing Regulated Navigation Areas found in 33 CFR 165.10, 165.11, and 165.13, including the Regulated Navigation Area described in paragraph (a) of this section and the following regulations, apply.

(2) All persons and vessels are required to transit the Regulated Navigation Area at a speed that creates minimum wake, seven miles per hour or less, to prevent damage to Coast Guard assets, disrupting operations, and/or injuring Coast Guard personnel.

(3) All persons and vessels are required to avoid passing other vessels making way within the Regulated Navigation Area.

(d) *Enforcement.* The Coast Guard may be assisted in the patrol and enforcement of the Regulated Navigation Area by other Federal, State, and local agencies.

Dated: November 8, 2021.

**B.C. McPherson,**

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

[FR Doc. 2021–25432 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Part 1**

**[Docket No.: PTO–P–2018–0031]**

**RIN 0651–AD31**

## Setting and Adjusting Patent Fees During Fiscal Year 2020

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Final rule; delay of effective date and final rule.

**SUMMARY:** The United States Patent and Trademark Office (USPTO or Office) published a final rule in the **Federal Register** on August 3, 2020, that includes a fee for patent applications that are not filed in DOCX format, except for design, plant, or provisional applications. This new fee was scheduled to become effective on January 1, 2022. Through this final rule, the USPTO is delaying the effective date of this fee until January 1, 2023.

**DATES:** As of November 22, 2021, the effective date of amendatory instruction 2.i. (affecting 37 CFR 1.16(u)), published at 85 FR 46932 on August 3, 2020, is delayed until January 1, 2023. This final rule is effective January 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Mark O. Polutta, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7709; or Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7727. You can also send inquiries by email to *patentpractice@uspto.gov.*

**SUPPLEMENTARY INFORMATION:** On August 3, 2020, the USPTO published a final rule in the **Federal Register** that included a new fee set forth in § 1.16(u) with an effective date of January 1, 2022. *See* Setting and Adjusting Patent Fees in Fiscal Year 2020, 85 FR 46932. As specified in § 1.16(u), the fee is due for any application filed on or after January 1, 2022, under 35 U.S.C. 111 for an original patent—except design, plant, or provisional applications—where the specification, claims, and/or abstract do not conform to the USPTO requirements for submission in DOCX format. Therefore, the fee is due for nonprovisional utility applications filed under 35 U.S.C. 111, including continuing applications, that are not filed in DOCX format.

The USPTO conducted two pilot programs for filing applications in DOCX format. The eMod Text Pilot Program was conducted between August 2016 and September 2017. The USPTO then expanded the ability to file patent applications in DOCX format in EFS-Web to all users in September 2017. In 2018, the USPTO launched Patent Center and conducted the Patent Center Text Pilot Program from June 2018 through April 2020. All applicants have been able to file applications in DOCX format in Patent Center since April 2020. Information about Patent Center is available at *www.uspto.gov/patents/apply/patent-center.* In addition, the USPTO has held many discussions with stakeholders to ensure a fair and reasonable transition to the DOCX format.

The USPTO is delaying the effective date of the fee set forth in § 1.16(u) until January 1, 2023. The delay will enable the USPTO to provide enhanced testing of its information technology systems as more users file in DOCX. The delay also will give applicants more time to adjust to filing patent applications in DOCX format.

Applicants are strongly encouraged to begin filing patent applications in DOCX format before the new effective date of the fee. Applicants are also reminded that they can file test submissions through Patent Center training mode to practice filing in DOCX. In addition, prior to the new effective date of the fee, the USPTO plans to provide an additional testing opportunity for applicants to file patent applications in DOCX format to encourage more applicants to acclimate to the process. Details of the opportunity will be announced in a forthcoming notice. Furthermore, applicants who have not yet taken advantage of the DOCX training sessions hosted by the USPTO are strongly encouraged to do so. Information on filing application documents in DOCX and a link to the DOCX training sessions are available at *www.uspto.gov/patents/docx.*

### Rulemaking Requirements

*A. Administrative Procedure Act:* This final rule revises the effective date of a final rule published on August 3, 2020, implementing a non-DOCX filing surcharge fee, and is a rule of agency practice and procedure pursuant to 5 U.S.C. 553(b)(A). *See JEM Broad. Co.* v. *F.C.C.,* 22 F.3d 32 (D.C. Cir. 1994) (''[T]he 'critical feature' of the procedural exception [in 5 U.S.C. 553(b)(A)] 'is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.' '' (quoting *Batterton* v. *Marshall,* 648 F.2d 694, 707 (D.C. Cir. 1980))); *see also Bachow Commc'ns Inc.* v. *F.C.C.,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims). Accordingly, prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))).

Moreover, the Director of the USPTO, pursuant to authority at 5 U.S.C. 553(b)(B), finds good cause to adopt the change to the effective date of § 1.16(u) in this final rule without prior notice and an opportunity for public comment, as such procedures would be impracticable and contrary to the public interest. The change to the effective date will provide the public an opportunity to more fully comprehend the nature of, and prepare to comply with, the DOCX format before the new fee is effective. Delay of this provision to provide prior notice and comment procedures is also impracticable because it would allow § 1.16(u) to go into effect before the public is ready for the DOCX format. In addition, the Director finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of this rule. Immediate implementation of the delay in effective date of the fee is in the public interest because it will provide the public an opportunity to more fully comprehend the nature of, and prepare to comply with, the DOCX format before the new fee in § 1.16(u) is effective.

*B. Regulatory Flexibility Act:* As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

*C. Executive Order 12866 (Regulatory Planning and Review):* This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

*D. Paperwork Reduction Act:* The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the USPTO consider the impact of paperwork and other information collection burdens imposed on the public. The USPTO has determined that there are no new

requirements for information collection associated with this final rule.

**List of Subjects for 37 CFR Part 1**

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Office amends 37 CFR part 1 as follows:

## PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

**Authority:** 35 U.S.C. 2(b)(2), unless otherwise noted.

**§ 1.16 [Amended]**

■ 2. Amend § 1.16 in paragraph (u) introductory text by removing ''January 1, 2022'' and adding ''January 1, 2023'' in its place.

**Andrew Hirshfeld,**

*Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2021–25368 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–16–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 73, and 74

**[GEN Docket No. 12–268; FCC 21–111; FR ID 56167]**

## Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts several rule updates to reflect the conclusion of the incentive auction and post-incentive auction transition period. First, the Commission adopts a revised Table of Allotments (Table) to reflect changes to full power television channel allotments contained in the 2018 Post-Transition Table of DTV Allotments to codify Commission actions taken over the past several years that modified the DTV channel allotments reflected in the 2018 Table, primarily actions related to the incentive auction and repacking process authorized by the Spectrum Act. The Order also deletes or revises Commission rules that no longer have any practical effect given the conclusion of the incentive auction and post-incentive auction transition period, or that are otherwise obsolete or irrelevant.

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

**FOR FURTHER INFORMATION CONTACT:** Kevin Harding, Media Bureau, at (202) 418–7077 or *Kevin.Harding@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Order,* in Gen Docket No. 12–268; FCC 21–111, adopted on October 22, 2021 and released on October 25, 2021. The full text of this document is available for download at *https://docs.fcc.gov/public/attachments/FCC-21-111A1.pdf.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

**Synopsis**

Channel allotments for full power television stations in the United States, its territories, and possessions are listed and codified in 47 CFR part 73 of the Commission's rules, and applicants for full power television stations may only apply to construct on the channels designated in the codified Table of Allotments and only in the communities listed therein. To accommodate the analog to digital television transition, in 1997 the Commission allotted a paired DTV channel to analog television licensees and permittees. All full power stations terminated analog operations on June 12, 2009 (with minor and temporary exceptions) and thereafter broadcast solely on its allotted digital channel. In 2012, Congress passed the Spectrum Act that required the Commission to reorganize the ultra-high frequency (UHF) band using a two-sided incentive auction that reallocated broadcast television spectrum for mobile broadband services, which included a repacking process that reorganized and assigned new channels to full power and Class A broadcast TV stations that would remain on the air after the auction. In implementing the Spectrum Act, the Commission decided, after seeking comment on the issue, that it would not use a codified Table or rulemaking procedures to implement channel changes resulting from the repacking process, instead determining that the Table would be amended to codify all new full power channel assignments after completion of the repacking and channel substitution process.

As a result of the incentive auction, 145 broadcast stations accepted incentive payments to relinquish their spectrum rights and either go off the air or, in some cases, continue broadcasting through a channel sharing arrangement. In addition, as a result of the repacking process, 987 full power and Class A stations were reassigned to new channels, and twenty-four winning channel sharing bidders filed applications to change their station's community of license. After the incentive auction, the Media Bureau opened two filing windows for stations that were repacked. These windows permitted certain reassigned stations or band changing stations to seek alternate channels. A total of 49 stations applied for an alternate channel during these two windows and received a construction permit for a new channel.

With the incentive auction and 39-month post-incentive auction transition period completed in July 2019, the Media Bureau lifted a number of filing freezes, effective November 2020, that pertained to the 2018 Table. Specifically, the Media Bureau lifted freezes on:

- Petitions for rulemaking to change channels in the Table of Allotments.
- Petitions for rulemaking for new allotments.
- Petitions for rulemaking to change communities of license.

The Bureau received almost 50 petitions, primarily to substitute a UHF channel for a VHF channel, to change a station's community of license, or to allot a new channel. The majority have been acted on and the changes effective, and the effective channel or community changes are reflected in the new Table. All the petitions were subject to a Notice of Proposed Rulemaking seeking comment on the proposed rule changes and all were adopted through a Report and Order, pursuant to the Administrative Procedure Act, and published in the **Federal Register**.

*The Post-Transition Table of Allotments.* The Order adopts a Table that reflects all previously approved changes since the last table of allotments update in 2018. Specifically, the new Table reflects the following actions by the Commission, described above: (1) The incentive auction and television repacking process authorized by the Spectrum Act; (2) channel changes requested by stations assigned to new channels as part of the incentive auction repacking process; and (3) changes adopted after lifting the freeze in November 2020 on the filing of rulemaking petitions to change the 2018 Table. In the Order, the Commission found good cause to make these

revisions to the Table without notice and comment. See 5 U.S.C. 553(b)(3)(B) (providing that notice and comment are not required ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest''). These revisions merely correct outdated information from the 2018 Table as a result of channel reassignments and/or community of license changes that have already been approved by the Commission.

*Deletion of Obsolete Rules.* The Order also adopts non-substantive, technical revisions to certain rules in 47 CFR parts 1, 73, and 74 that are now outdated given the reallocation of television channels 38 through 51 for wireless broadband uses, the previous reallocation of channels 52 through 69 for wireless use at the end of the DTV transition in June 2009, and the conversion from analog to digital television technology.

*Rulemaking Proceedings.* The Order amends 47 CFR 1.420(a), (g), (h), and (i), which specify the procedures for amending the TV Table of Allotments, by deleting cross-references to ''§ 73.606(b)'' and replacing them with ''§ 73.622(j),'' the updated Table of Allotments adopted in the Order.

*Television Broadcast Stations.* The Order amends 47 CFR 73.622 to delete the obsolete Tables in § 73.622(b) and (i), which are superseded by § 73.622(j), the updated Table of Allotments adopted in the Order. The Order also amends 47 CFR 73.606 by deleting the cross-reference to ''§ 73.622(i)'' and adding a cross-reference to ''§ 73.622(j),'' and designates 47 CFR 73.622(j) as the ''successor regulation'' to 47 CFR 73.606. The Order also amends certain part 73 rules to remove references to channels and frequency bands that are no longer in-core television spectrum given the reallocation of channels 38 through 51 through the incentive auction repack and the previous reallocation of channels 52 through 69 at the end of the DTV transition in June 2009, and/or refer to obsolete rule § 73.606(b), § 73.622(b), or § 73.622(i) or reference analog TV stations or operations, or otherwise irrelevant information. Specifically, the Order deletes references to the 2018 Table, the obsolete rules sections, and references to channel numbers that are now out-of-core for television stations in each of the following: §§ 73.603(a); 73.613(b); 73.614(b)(5), 73.616(a); 73.622(a)(1) and (2), (b), (e)(1) and (2), (f)(1), (g), (i); 73.623 (a), and (c), and (g); 73.681; 73.687(a)(1) and (4), (e)(3) and (4), (i); 73.699; 73.1690 (a)(8) and (c)(3) and (4); 73.3572 (a)(1) and (4)(ii); 73.6006; 73.6010(a) and (c); 73.7000. The Order also deletes irrelevant information from § 73.625(a). This rule sets forth the community coverage contour signal strength that stations must provide to the entire principal community to be served, and the deleted material sets forth the signal strength of a station's noise limited contour, and thus, has no applicability to § 73.625(a). Deleting it does not alter the rule and avoids confusion. Finally, the Order deletes § 73.3700(f), which sets forth the requirements for filing service rule waiver requests immediately following the close of the incentive auction in 2017. Such waiver requests were required to be submitted no later than May 15, 2017 and all such requests have been disposed of in decisions that are now final.

*Low Power TV, TV Translator, and TV Booster Stations.* The Order also amends a number of Part 74 rules that apply to low power and television translator stations to remove references to channels and frequency bands that are no longer in-core television spectrum and/or reference analog TV operations which are no longer permitted, specifically, 47 CFR 74.702(a)(2) and (3), (b); 74.703 (f) and (g); 74.707; 74.735(a), (b), and (c); 74.786 (c) and (d)–(g); 74.787(c); 74.792(a); and 74.795(c)(1).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will also send a copy of this Order to Congress and the Government Accountability office, pursuant to 5 U.S.C. 801(a)(1)(A).

**List of Subjects**

*47 CFR Part 1*

Administrative practice and procedures, Television.

*47 CFR Part 73*

Television.

*47 CFR Part 74*

Television.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 73, and 74 as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

■ 2. Section 1.420 is amended by revising paragraphs (a), (g) introductory text, (h), and (i) to read as follows:

**§ 1.420 Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments, or for amendment of certain FM assignments.**

(a) Comments filed in proceedings for amendment of the FM Table of Allotments (§ 73.202 of this chapter) or the Television Table of Allotments (§ 73.622(j) of this chapter) which are initiated on a petition for rule making shall be served on petitioner by the person who files the comments.

* * * * *

(g) The Commission may modify the license or permit of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend § 73.622(j), or it may modify the license or permit of an FM station to another class of channel through notice and comment procedures, if any of the following conditions are met:

* * * * *

(h) Where licensees (or permittees) of television broadcast stations jointly petition to amend § 73.622(j) and to exchange channels, and where one of the licensees (or permittees) operates on a commercial channel while the other operates on a reserved noncommercial educational channel within the same band, and the stations serve substantially the same market, then the Commission may amend § 73.606(b) or § 73.622(j) and modify the licenses (or permits) of the petitioners to specify operation on the appropriate channels upon a finding that such action will promote the public interest, convenience, and necessity.

(i) In the course of the rule making proceeding to amend § 73.202(b) or § 73.622(j), the Commission may modify the license or permit of an FM or television broadcast station to specify a

new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment.

* * * * *

## PART 73—RADIO BROADCAST SERVICES

■ 3. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

### § 73.603 [Amended]

■ 4. Section 73.603 is amended in the table in paragraph (a) by removing the entries for channel numbers 38 through 69.

■ 5. Section 73.606 is revised to read as follows:

### § 73.606 Table of allotments.

The table of allotments set forth in § 73.622(j) contains the channels designated for the listed communities in the United States, its Territories, and possessions. Channels designated with an asterisk are assigned for use by noncommercial educational broadcast stations only.

■ 6. Section 73.613 is amended by revising paragraph (b) to read as follows:

### § 73.613 Protection of Class A TV stations.

* * * * *

(b) Due to the frequency spacing which exists between TV channels 4 and 5, between channels 6 and 7, and between channels 13 and 14, first-adjacent channel protection standards shall not be applicable to these pairs of channels. Some interference protection requirements of this section only apply to stations transmitting on the UHF TV channels 14 through 36 (*see* § 73.603(a)).

* * * * *

■ 7. Section 73.614 is amended by revising paragraph (b)(5) to read as follows:

### § 73.614 Power and antenna height requirements.

* * * * *

(b) * * *

(5) Channels 14–36 in Zones I, II, and III

$ERP_{Max} = 84.57–17.08* Log_{10}$ (HAAT)

And,

27 dBk $\leq ERP_{Max} \leq$ 37 dBk

Where:

$ERP_{Max}$ = Maximum Effective Radiated Power measured in decibels above 1 kW (dBk).

HAAT = Height Above Average Terrain measured in meters.

The boundaries specified are to be used to determine the maximum possible combination of antenna height and $ERP_{dBk}$. When specifying an $ERP_{dBk}$ less than that permitted by the lower boundary, any antenna HAAT can be used. Also, for values of antenna HAAT greater than 2,300 meters the maximum ERP is the lower limit specified for each equation.

* * * * *

■ 8. Section 73.616 is amended by revising paragraph (a) to read as follows:

### § 73.616 Post-transition DTV station interference protection.

(a) A petition to add a new channel to the post-transition DTV Table of Allotments contained in § 73.622(j) of this subpart will not be accepted unless it meets: The DTV-to-DTV geographic spacing requirements of § 73.623(d) with respect to all existing DTV allotments in the post-transition DTV Table; the principle community coverage requirements of § 73.625(a); the Class A TV and digital Class A TV protection requirements in paragraph (f) of this section; the land mobile protection requirements of § 73.623(e); and the FM radio protection requirement of § 73.623(f).

* * * * *

■ 9. Section 73.622 is amended by revising paragraphs (a) introductory text and (a)(1), removing and reserving paragraph (b), revising paragraphs (e)(1) and (2), removing and reserving paragraphs (f)(1), (g), and (i), and adding paragraph (j).

The revisions and addition read as follows:

### § 73.622 Digital television table of allotments.

(a) *General.* The following table of allotments contains the digital television (DTV) channel allotments designated for the listed communities in the United States, its Territories, and possessions. Requests for addition of new DTV allotments, or requests to change the channels allotted to a community must be made in a petition for rule making to amend the DTV Table of Allotments. A request to amend the DTV table to change the channel of an allotment in the DTV table will be evaluated for technical acceptability using engineering criteria set forth in § 73.623(c). A request to amend the DTV table to add a new allotment will be evaluated for technical acceptability using the geographic spacing criteria set forth in § 73.623(d). DTV allotments designated with an asterisk are assigned for use by non-commercial educational broadcast stations only. Rules governing noncommercial educational TV stations are contained in § 73.621. Where there is only one technically available channel available in a community, an entity that would be eligible to operate a noncommercial educational broadcast station may, prior to application, initiate a rulemaking proceeding requesting that an unoccupied or new channel in the community be changed or added as reserved only for noncommercial educational broadcasting upon demonstrating that the noncommercial educational proponent would provide a first or second noncommercial educational TV service to 2,000 or more people who constitute 10% of the population within the proposed allocation's noise limited contour.

(1) Petitions requesting the addition of a new allotment must specify a channel in the range of channels 2–36.

* * * * *

(e) * * *

(1) The service area of a DTV station is the geographic area within the station's noise-limited F(50,90) contour where its signal strength is predicted to exceed the noise-limited service level. The noise-limited contour is the area in which the predicted F(50,90) field strength of the station's signal, in dB above 1 microvolt per meter (dBu) as determined using the method in § 73.625(b) exceeds the following levels (these are the levels at which reception of DTV service is limited by noise):

| | dBu |
|---|---|
| Channels 2–6 | 28 |
| Channels 7–13 | 36 |
| Channels 14–36 | 41 |

(2) Within this contour, service is considered available at locations where the station's signal strength, as predicted using the terrain dependent Longley-Rice point-to-point propagation model, exceeds the levels above. Guidance for evaluating coverage areas using the Longley-Rice methodology is provided in *OET Bulletin No. 69.* Copies of this document are available on the FCC's website. See *https://www.fcc.gov/general/oet-bulletins-line.*

* * * * *

(j) *Table of TV Allotments.*

| Community | Channel No. |
|---|---|
| **Alabama** | |
| Anniston | 9 |
| Bessemer | 14 |
| Birmingham | 7, *10, 20, 29, 30 |
| Demopolis | *19 |
| Dothan | 21, 36 |
| Dozier | *10 |
| Florence | 2, *22 |
| Gadsden | 26 |
| Gulf Shores | 27 |
| Homewood | 21 |
| Hoover | 33 |
| Huntsville | 15, 17, 18, 19, *24 |
| Louisville | *30 |
| Mobile | 9, 15, 18, 20, 23, *30 |
| Montgomery | 8, 22, *27, 28, 31 |
| Mount Cheaha | *12 |
| Opelika | 17 |
| Ozark | 33 |
| Selma | 25, 34 |
| Troy | 19 |
| Tuscaloosa | 6, 36 |
| Tuskegee | 18 |
| **Alaska** | |
| Anchorage | 7, *8, 10, 12, 20, *26, 28, 33 |
| Bethel | *3 |
| Fairbanks | 7, *9, 18, 26 |
| Juneau | *10, 11 |
| Ketchikan | 13 |
| North Pole | 20 |
| Sitka | 7 |
| **Arizona** | |
| Douglas | 36 |
| Flagstaff | 13, 22, 32 |
| Green Valley | 34 |
| Holbrook | *11 |
| Kingman | 19 |
| Mesa | 18 |
| Phoenix | *8, 10, 15, 17, 20, 24, 26, 27, 29, 33 |
| Prescott | 7 |
| Sierra Vista | 21 |
| Tolleson | 31 |
| Tucson | 9, 16, 19, 23, 25, *28, *30, 32 |
| Yuma | 11, 13 |
| **Arkansas** | |
| Arkadelphia | *13 |
| Camden | 18 |
| El Dorado | *10, 27 |
| Eureka Springs | 25 |
| Fayetteville | *9, 15 |
| Fort Smith | 18, 21, 27 |
| Harrison | 31 |
| Hot Springs | 16 |
| Jonesboro | 18, *20, 27 |
| Little Rock | *7, 12, 22, 28, 30, 32, *36 |
| Mountain View | *13 |
| Pine Bluff | 24, 34 |
| Rogers | 33 |
| Springdale | 29 |
| **California** | |
| Anaheim | 12 |
| Arcata | 22 |
| Avalon | S |
| Bakersfield | 10, 25, 26, 33 |
| Bishop | 20 |
| Calipatria | 36 |

| Community | Channel No. |
|---|---|
| Ceres | *15 |
| Chico | 20, 36 |
| Clovis | 27 |
| Concord | S |
| Corona | 25 |
| Cotati | *5 |
| El Centro | 9, 22 |
| Eureka | 3, *11, 17, 28 |
| Fort Bragg | 8 |
| Fremont | S |
| Fresno | 7, 20, 30, *32, 34 |
| Garden Grove | S |
| Hanford | 21 |
| Huntington Beach | *S |
| Inglewood | S |
| Long Beach | 18 |
| Los Angeles | 4, 7, 9, 11, 13, *28, 31, 34, 35, 36, *S |
| Merced | 11 |
| Modesto | 18 |
| Monterey | 32, S |
| Oakland | 31 |
| Ontario | 29 |
| Palm Springs | 26, 28 |
| Palo Alto | S |
| Paradise | 30 |
| Porterville | 23 |
| Rancho Palos Verdes | 30 |
| Redding | *9, 15 |
| Riverside | S |
| Sacramento | *9, 10, 21, 22, 24, 35 |
| Salinas | 8, 11 |
| San Bernardino | *5, 24 |
| San Diego | 8, 10, 17, 18, *19, 26 |
| San Francisco | 7, 12, 20, 28, 29, *30, 32, S, S, *S |
| San Jose | 13, 19, 33, 36, *S |
| San Luis Obispo | 15, 34 |
| San Mateo | *27 |
| Sanger | 36 |
| Santa Ana | 33 |
| Santa Barbara | 21, 27 |
| Santa Maria | 19 |
| Stockton | 23, 25, 26 |
| Twentynine Palms | 23 |
| Vallejo | 34 |
| Ventura | S |
| Visalia | *22, 28 |
| Watsonville | *25 |
| **Colorado** | |
| Boulder | 32 |
| Broomfield | *13 |
| Castle Rock | 15 |
| Colorado Springs | 22, 24, 26 |
| Denver | 7, 9, 18, *20, 28, 31, *33, 34, 35, 36 |
| Durango | 15, *20, 33 |
| Fort Collins | 21 |
| Glenwood Springs | 23 |
| Grand Junction | 2, 7, 12, 15, *18 |
| Greeley | 17 |
| Longmont | 29 |
| Montrose | 13 |
| Pueblo | *8, 25, 27 |
| Steamboat Springs | 10 |
| Sterling | 23 |
| **Connecticut** | |
| Bridgeport | S |
| Hartford | *30, 34, 36, S |
| New Britain | 31 |
| New Haven | 10, S, *S |
| New London | 28 |
| Norwich | *9 |

| Community | Channel No. |
|---|---|
| Stamford | *21 |
| Waterbury | 33 |
| **Delaware** | |
| Dover | 5 |
| Seaford | *24 |
| Wilmington | 2, *13, 34 |
| **District of Columbia** | |
| Washington | 7, 9, *31, *33, 34, 36, S, S |
| **Florida** | |
| Boca Raton | *25 |
| Boynton Beach | *S |
| Bradenton | 29 |
| Cape Coral | 34 |
| Clearwater | 21 |
| Clermont | 23 |
| Cocoa | *30, 32 |
| Daytona Beach | 11, 15 |
| Destin | 29 |
| Fort Lauderdale | 30 |
| Fort Myers | 15, *22, 31 |
| Fort Pierce | *18, 20 |
| Fort Walton Beach | 14, 21, 25 |
| Gainesville | 8, 16, *36 |
| High Springs | 29 |
| Hollywood | 24 |
| Jacksonville | *9, 13, 14, 18, 19, 20, *21 |
| Key West | 3, 8 |
| Lake Worth | 36 |
| Lakeland | 18 |
| Leesburg | 7, *S |
| Live Oak | 17 |
| Marianna | 26 |
| Melbourne | 14, 22 |
| Miami | 9, 10, 21, 22, 23, *26, 27, 28, *29, 31, 32 |
| Naples | 28, 32 |
| New Smyrna Beach | *24 |
| Ocala | 31 |
| Orange Park | 10 |
| Orlando | 26, 27, 28, 33, *34, 35 |
| Palm Beach | 7 |
| Panama City | 9, 13, 16, *28 |
| Panama City Beach | 33 |
| Pensacola | 17, *24, 34, 35 |
| Sarasota | 24 |
| St. Petersburg | 10, 19, S |
| Stuart | 34 |
| Tallahassee | 22, 24, 27, *32 |
| Tampa | 9, 12, *13, 17, 20, *S |
| Tequesta | 16 |
| Tice | 33 |
| Venice | 25 |
| West Palm Beach | 12, 13, 35 |
| **Georgia** | |
| Albany | 10, 29 |
| Athens | *7, 18 |
| Atlanta | 10, 19, *21, 25, 27, 31, 32, *34, 36 |
| Augusta | 27, 28, 36 |
| Bainbridge | 19 |
| Baxley | 35 |
| Brunswick | 24 |
| Chatsworth | *4 |
| Cochran | *9 |
| Columbus | *5, 11, 15, 24, 35 |
| Cordele | 34 |
| Dalton | 28 |
| Dawson | *7 |

| Community | Channel No. |
|---|---|
| Macon | 13, 26, 30, 33 |
| Monroe | 22 |
| Pelham | *6 |
| Perry | 23 |
| Rome | 16 |
| Savannah | *8, 16, 22, 23 |
| Thomasville | 20 |
| Toccoa | 24 |
| Valdosta | 31 |
| Waycross | *7 |
| Wrens | *6 |
| **Hawaii** | |
| Hilo | 9, 11, 13, 22, 23 |
| Honolulu | 8, *11, *18, 19, 20, 22, 23, *26, 27, 31, 33, 35 |
| Kailua | 29 |
| Kailua-Kona | 25 |
| Kaneohe | 32 |
| Wailuku | 7, *10, 12, 16, 21, 24 |
| Waimanalo | 15 |
| **Idaho** | |
| Boise | 7, 15, 20, *21 |
| Caldwell | 10 |
| Coeur d'Alene | *18 |
| Filer | *18 |
| Idaho Falls | 8, 20, 36 |
| Lewiston | 32 |
| Moscow | *12 |
| Nampa | 13, 24 |
| Pocatello | *17, 23, 31 |
| Sun Valley | 5 |
| Twin Falls | 11, *22, 34 |
| **Illinois** | |
| Aurora | S |
| Bloomington | 28 |
| Carbondale | *8 |
| Champaign | 32, 34 |
| Charleston | *30 |
| Chicago | 12, 19, 22, 23, 24, *25, 33, 34, S, *S |
| Decatur | 20, 22 |
| East St. Louis | 28 |
| Freeport | 9 |
| Galesburg | 8 |
| Harrisburg | 34 |
| Jacksonville | *18 |
| Joliet | 35 |
| Macomb | *36 |
| Marion | 30 |
| Moline | *23, 31 |
| Mount Vernon | 13 |
| Naperville | S |
| Olney | *23 |
| Oswego | 10 |
| Peoria | 24, 25, 26, *35 |
| Quincy | 22, 32, *34 |
| Rock Island | 4 |
| Rockford | 13, 16, 36 |
| Springfield | 11, 15, 16 |
| Urbana | *9, 36 |
| **Indiana** | |
| Angola | 12 |
| Bloomington | 27, 28, *33, S |
| Elkhart | 30 |
| Evansville | *9, 12, 22, 26, 28 |
| Fort Wayne | *18, 20, 24, 32, 34 |
| Gary | *17, S |
| Hammond | 21 |

| Community | Channel No. |
|---|---|
| Indianapolis | 7, 9, 13, *21, 22, *23, 25 |
| Kokomo | 15 |
| Lafayette | 11 |
| Marion | S |
| Muncie | 19 |
| Richmond | S |
| Salem | 16 |
| South Bend | 27, 29, *31, 36 |
| Terre Haute | 10, 18, 35 |
| Vincennes | *31 |
| **Iowa** | |
| Ames | 5, 23, *34 |
| Burlington | 21 |
| Cedar Rapids | 22, 27, 29, 32 |
| Council Bluffs | *33 |
| Davenport | 17, 30, *34 |
| Des Moines | 8, *11, 13, 16, 19 |
| Dubuque | 14 |
| Fort Dodge | *25 |
| Iowa City | *12, 25 |
| Mason City | *18, 24 |
| Newton | 36 |
| Ottumwa | 15 |
| Red Oak | *35 |
| Sioux City | 9, 14, *28, 30, 32 |
| Waterloo | 7, *35 |
| **Kansas** | |
| Colby | 17, *19 |
| Derby | 31 |
| Dodge City | *21 |
| Ensign | 6 |
| Garden City | 11, 13 |
| Goodland | 10 |
| Great Bend | 22 |
| Hays | 7, *16 |
| Hoisington | 14 |
| Hutchinson | *8, 19, 35 |
| Lakin | *8 |
| Lawrence | 25 |
| Pittsburg | 7, 13 |
| Salina | 17 |
| Topeka | *11, 12, 13, 16, 27 |
| Wichita | 10, 12, 15, 26 |
| **Kentucky** | |
| Ashland | 13, *36 |
| Beattyville | 7 |
| Bowling Green | 13, *18, 24, *29 |
| Covington | *22 |
| Danville | 19 |
| Elizabethtown | *23 |
| Harlan | S |
| Hazard | 12, *33 |
| Lexington | 21, 27, 28, *35 |
| Louisville | 8, 11, 14, *30, 32, *34, 36 |
| Madisonville | *31 |
| Morehead | *30 |
| Murray | *17 |
| Newport | 15 |
| Owensboro | 17 |
| Owenton | *24 |
| Paducah | 19, *23, 25 |
| Pikeville | *23 |
| Richmond | 25 |
| Somerset | *17 |
| **Louisiana** | |
| Alexandria | 26, 31, *33, 35 |

| Community | Channel No. |
|---|---|
| Baton Rouge | 9, 13, 24, *25, 34 |
| Columbia | 11 |
| Hammond | 35 |
| Lafayette | 10, 16, *23, 28 |
| Lake Charles | 7, 18, *20 |
| Minden | 32 |
| Monroe | 8, *13 |
| New Iberia | 17 |
| New Orleans | 15, 19, 21, *23, 26, 27, *28, 29, 33 |
| Shreveport | 16, *17, 23, 28, 34 |
| Slidell | 17 |
| West Monroe | 19, 22 |
| **Maine** | |
| Augusta | *10 |
| Bangor | 2, 7, 13 |
| Biddeford | *36 |
| Calais | *10 |
| Lewiston | 24 |
| Orono | *9 |
| Poland Spring | 8 |
| Portland | 15, 31, 34 |
| Presque Isle | 8, *10 |
| Waterville | 17 |
| **Maryland** | |
| Annapolis | *21 |
| Baltimore | 11, 12, *22, 25, 26, 27, S |
| Frederick | *28 |
| Hagerstown | 23, *29 |
| Oakland | *26 |
| Salisbury | *16, 29, 32 |
| Silver Spring | S |
| **Massachusetts** | |
| Boston | *5, 20, 21, 22, *32, 33, 34, 35 |
| Cambridge | S |
| Foxborough | S |
| Lowell | *S |
| Marlborough | 27 |
| New Bedford | 24, S |
| Norwell | 10 |
| Pittsfield | 7 |
| Springfield | 11, *13, 26 |
| Woburn | S |
| Worcester | 19 |
| **Michigan** | |
| Alpena | 11, *24 |
| Ann Arbor | 24 |
| Bad Axe | *15 |
| Battle Creek | 17, 21 |
| Bay City | 23, 30 |
| Cadillac | 9, 32, *34 |
| Calumet | 5 |
| Cheboygan | 16 |
| Detroit | 7, *20, 21, 25, 31, 32, 34 |
| East Lansing | *33 |
| Escanaba | 32 |
| Flint | 12, 16 |
| Grand Rapids | 7, *11, 13, 19 |
| Ishpeming | 10 |
| Kalamazoo | *5, 8, 22 |
| Lansing | 14, 28, S |
| Manistee | *20 |
| Marquette | *8, 19, 35 |
| Mount Clemens | 27 |
| Mount Pleasant | *26 |
| Muskegon | 24 |
| Onondaga | 10 |

| Community | Channel No. |
|---|---|
| Saginaw | 18, 36 |
| Sault Ste. Marie | 8, 10 |
| Traverse City | 29, 35 |
| Vanderbilt | 21 |
| **Minnesota** | |
| Alexandria | 7, 24 |
| Appleton | *10 |
| Austin | *20, 36 |
| Bemidji | *9, 26 |
| Brainerd | *28 |
| Chisholm | 11 |
| Crookston | *16 |
| Duluth | *8, 10, 18, 27, 33 |
| Hibbing | 13, *31 |
| Mankato | 12 |
| Minneapolis | 9, 22, 29, 30, 31, 32 |
| Redwood Falls | 27 |
| Rochester | 10, 26 |
| St. Cloud | 16 |
| St. Paul | *23, *34, 35 |
| Thief River Falls | 10 |
| Walker | 12 |
| Worthington | *15 |
| **Mississippi** | |
| Biloxi | *16, 32 |
| Booneville | *9 |
| Bude | *18 |
| Columbus | 27 |
| Greenville | 15 |
| Greenwood | *25, 32 |
| Gulfport | 25 |
| Hattiesburg | 22 |
| Holly Springs | 26 |
| Jackson | 12, 14, *20, 21, 23, 30 |
| Laurel | 7 |
| Magee | 34 |
| Meridian | 13, 24, *28, 31 |
| Mississippi State | *8 |
| Natchez | 15 |
| Oxford | *36 |
| Senatobia | *S |
| Tupelo | 11, 17 |
| Vicksburg | 36 |
| West Point | 16 |
| **Missouri** | |
| Cape Girardeau | 32, 36 |
| Columbia | 17, 27 |
| Hannibal | 22 |
| Jefferson City | 20, 29 |
| Joplin | 17, 23, *35 |
| Kansas City | *18, 24, 29, 30, 31, 32, 34, 36 |
| Kirksville | 33 |
| Osage Beach | 22 |
| Poplar Bluff | 15 |
| Sedalia | 15 |
| Springfield | 10, *16, 19, 28 |
| St. Joseph | 7, 21 |
| St. Louis | 14, *23, 24, 26, 31, 33, 35 |
| **Montana** | |
| Billings | 10, 11, *16, 18 |
| Bozeman | *8, 13 |
| Butte | 5, 19, 20, 24 |
| Glendive | 5 |
| Great Falls | 7, 8, 17, *21, 26 |
| Hardin | 22 |
| Havre | 9 |

| Community | Channel No. |
|---|---|
| Helena | 12, 29 |
| Kalispell | 9, *15 |
| Miles City | 3 |
| Missoula | 7, *11, 20, 23 |
| **Nebraska** | |
| Alliance | *13 |
| Bassett | *7 |
| Grand Island | 11 |
| Hastings | 5, *28 |
| Hayes Center | 6 |
| Kearney | 18 |
| Lexington | *26 |
| Lincoln | 8, 10, *12, 15 |
| McCook | 12 |
| Merriman | *12 |
| Norfolk | *19 |
| North Platte | 2, *9 |
| Omaha | *17, 20, 22, 26, 29, 31 |
| Scottsbluff | 29 |
| Sidney | 7 |
| York | 24 |
| **Nevada** | |
| Elko | 10 |
| Ely | 27 |
| Henderson | 9 |
| Las Vegas | 2, 7, *11, 13, 16, 22, 29 |
| Laughlin | 32 |
| Paradise | 20 |
| Reno | 8, 11, 12, *15, 20, 23, 26 |
| Tonopah | 9 |
| Winnemucca | 7 |
| **New Hampshire** | |
| Concord | 23 |
| Derry | S |
| Durham | *11 |
| Keene | *18 |
| Littleton | *23 |
| Manchester | 9 |
| Merrimack | 29 |
| **New Jersey** | |
| Atlantic City | 4 |
| Camden | *23 |
| Jersey City | S |
| Linden | 35 |
| Middletown Township | 3 |
| Millville | S |
| Montclair | *S |
| Mount Laurel | S |
| New Brunswick | *8 |
| Newark | 12, 26 |
| Newton | 18 |
| Paterson | S |
| Princeton | S |
| Secaucus | 25 |
| Trenton | *S |
| Vineland | S |
| Wildwood | 36 |
| **New Mexico** | |
| Albuquerque | 7, 13, 16, *17, 22, 24, 26, *35, 36 |
| Carlsbad | 19, 25 |
| Clovis | 12 |
| Farmington | 12 |
| Hobbs | 29 |
| Las Cruces | *23, 26 |
| Portales | *32 |

| Community | Channel No. |
|---|---|
| Roswell | 8, 10, 21, 27 |
| Santa Fe | *8, 10, 27, 29 |
| Silver City | 10, 12 |
| **New York** | |
| Albany | 8, 12, 24 |
| Amsterdam | 19 |
| Batavia | 24 |
| Binghamton | 7, 8, 27, *31 |
| Buffalo | 16, *31, 32, 33, 34, 36, S |
| Carthage | 8 |
| Corning | *25, 30 |
| Elmira | 23, 35 |
| Garden City | *32 |
| Ithaca | 13 |
| Jamestown | 5 |
| New Rochelle | S |
| New York | 7, 11, *24, 27, 34, 36, S |
| Norwood | *23 |
| Plattsburgh | 14, *36 |
| Riverhead | 29 |
| Rochester | 9, 10, 21, *22, 28 |
| Saranac Lake | 34 |
| Schenectady | 22, *25, 35 |
| Smithtown | 23 |
| Springville | 7 |
| Syracuse | 14, 15, 17, 18, 19, *20, 36 |
| Utica | 29, 30, 34 |
| Watertown | *26, 31 |
| **North Carolina** | |
| Archer Lodge | S |
| Asheville | 13, *20, S |
| Belmont | 25 |
| Burlington | 26 |
| Chapel Hill | *20 |
| Charlotte | *9, 18, 19, 23, 24 |
| Concord | *21 |
| Durham | 9, 14 |
| Edenton | *29 |
| Fayetteville | 22 |
| Goldsboro | 8 |
| Greensboro | 28, 35, S |
| Greenville | 12, 19, *25, 36 |
| Hickory | 14 |
| High Point | 31 |
| Jacksonville | 16, *28 |
| Kannapolis | 32 |
| Lexington | S |
| Linville | *36 |
| Lumberton | *30 |
| Manteo | 13 |
| New Bern | 10 |
| Raleigh | 15, 17, 18 |
| Roanoke Rapids | *27 |
| Rocky Mount | 32 |
| Wake Forest | S |
| Washington | 34 |
| Wilmington | *21, 23, 24, 29 |
| Winston-Salem | 16, 29, *33 |
| **North Dakota** | |
| Bismarck | 12, 17, *22, 26, 31 |
| Devils Lake | 8, *25 |
| Dickinson | 7, *9, 19 |
| Ellendale | *20 |
| Fargo | *13, 19, 21, 36 |
| Grand Forks | *15, 27 |
| Jamestown | 7 |
| Minot | 10, 13, 14, *15, 24 |
| Pembina | 12 |

| Community | Channel No. |
|---|---|
| Valley City | 24 |
| Williston | 8, *11, 14 |
| **Ohio** | |
| Akron | 17, 22, *24 |
| Alliance | *29 |
| Athens | *32 |
| Bowling Green | *22 |
| Cambridge | *6 |
| Canton | S, S |
| Chillicothe | 23 |
| Cincinnati | 12, *17, 18, 20, 26 |
| Cleveland | 8, 15, 19, *35, 36 |
| Columbus | 14, *16, 21, 27, 28 |
| Dayton | 31, 33, 34, *35, 36 |
| Lima | 4, 8 |
| London | S |
| Lorain | S |
| Mansfield | 12 |
| Oxford | *29 |
| Portsmouth | 15 |
| Sandusky | 3 |
| Shaker Heights | 10 |
| Springfield | S |
| Steubenville | 9 |
| Toledo | 5, 11, 13, 23, 26, *29 |
| Youngstown | 31, 33, S |
| Zanesville | 30 |
| **Oklahoma** | |
| Ada | 17 |
| Bartlesville | 36 |
| Cheyenne | *8 |
| Claremore | *32 |
| Eufaula | *31 |
| Lawton | 11 |
| Muskogee | 20 |
| Norman | 16 |
| Oklahoma City | 7, *13, 15, 18, 19, 23, 24, 25, 27, 33 |
| Okmulgee | 28 |
| Shawnee | 29 |
| Tulsa | 8, 10, *11, 12, 16, 22, 26, 34 |
| Woodward | 35 |
| **Oregon** | |
| Bend | *11, 18, 21 |
| Coos Bay | 11, 22 |
| Corvallis | *7 |
| Eugene | 9, 17, 28, *29, 31 |
| Grants Pass | 30 |
| Klamath Falls | 13, 29, *33 |
| La Grande | *13, 16 |
| Medford | 5, *8, 10, 12, 26 |
| Pendleton | 11 |
| Portland | *10, 12, 24, 25, 26, 32 |
| Roseburg | 18, 19, 36 |
| Salem | 22, 33 |
| **Pennsylvania** | |
| Allentown | S, *S |
| Altoona | 6, 24, 31 |
| Bethlehem | 9 |
| Clearfield | *15 |
| Erie | 12, 21, 26, *27, 28 |
| Greensburg | 28 |
| Harrisburg | 10, 32, *36 |
| Hazleton | 22 |
| Jeannette | 11 |
| Johnstown | 8, 35 |
| Lancaster | 8, S |

| Community | Channel No. |
|---|---|
| Philadelphia | 6, 17, 28, 30, 31, 33, *S |
| Pittsburgh | *4, 16, 20, 21, 23, 25, 27 |
| Red Lion | S |
| Scranton | 12, 21, 33, 34, *S |
| Wilkes-Barre | 11 |
| Williamsport | 29 |
| Willow Grove | S |
| York | S |
| **Rhode Island** | |
| Newport | 17 |
| Providence | *2, 7, 12, 25 |
| **South Carolina** | |
| Allendale | *21 |
| Anderson | 35 |
| Beaufort | *32 |
| Charleston | 17, 19, 20, *24, 25, 34 |
| Columbia | 7, 10, 15, 22, 25, *33 |
| Conway | *28 |
| Florence | 13, *16, 26, 27 |
| Greenville | 2, *8, 17, 30 |
| Greenwood | *26 |
| Hardeeville | 26 |
| Myrtle Beach | 32, 36 |
| Rock Hill | 34, S |
| Spartanburg | 11, *S |
| Sumter | *29, 31 |
| **South Dakota** | |
| Aberdeen | 9, *17 |
| Brookings | *8 |
| Eagle Butte | *13 |
| Florence | 3 |
| Huron | 12 |
| Lead | 5, 10 |
| Lowry | *11 |
| Martin | *8 |
| Mitchell | 26 |
| Pierre | *10, 19 |
| Rapid City | 2, 7, 16, 21, *26 |
| Reliance | 13 |
| Sioux Falls | 7, 11, 13, 21, *24, 36 |
| Vermillion | *34 |
| **Tennessee** | |
| Chattanooga | 8, 9, 13, 14, *35 |
| Cleveland | 23 |
| Cookeville | *22 |
| Crossville | 31 |
| Franklin | 32 |
| Greeneville | 28 |
| Hendersonville | 33 |
| Jackson | 21, 35 |
| Jellico | 18 |
| Johnson City | 9 |
| Kingsport | 32 |
| Knoxville | 7, 10, 15, 26, *29, 34 |
| Lebanon | 25 |
| Lexington | *27 |
| Memphis | 5, 13, 23, 25, 28, *29, 31, 33 |
| Murfreesboro | 16 |
| Nashville | *7, 10, 20, 21, 27, 30, 36 |
| Sneedville | *24 |
| Tazewell | 36 |
| **Texas** | |
| Abilene | 15, 29, 30 |
| Alvin | 36 |
| Amarillo | *9, 10, 15, 19, 20 |

| Community | Channel No. |
|---|---|
| Arlington | 25 |
| Austin | 7, 21, *22, 23, 33, 34 |
| Baytown | 31 |
| Beaumont | 12, 15, *29 |
| Belton | 17 |
| Big Spring | 33 |
| Blanco | 18 |
| Borger | 31 |
| Bryan | 24 |
| College Station | 16, 29 |
| Conroe | *12 |
| Corpus Christi | 8, 10, 19, *23, 26, 27 |
| Dallas | 8, *14, 21, 27, 32, 35, 36 |
| Decatur | 30 |
| Del Rio | 28 |
| Denton | *29 |
| Eagle Pass | 18 |
| El Paso | *13, 15, 16, 17, 18, 20, *21, 25 |
| Farwell | 18 |
| Fort Worth | 9, 18, 19, 24 |
| Fredericksburg | 8 |
| Galveston | 22, *23 |
| Garland | 33 |
| Greenville | 23 |
| Harlingen | 16, 18, *21 |
| Houston | *8, 11, 13, 19, 21, *24, 26, 34, 35 |
| Irving | 34 |
| Jacksonville | 22 |
| Katy | 25 |
| Kerrville | 32 |
| Killeen | 13 |
| Lake Dallas | 31 |
| Laredo | 8, 19 |
| Llano | 27 |
| Longview | 20, S |
| Lubbock | 16, *25, 27, 31, 35, 36 |
| Lufkin | 9 |
| McAllen | 17 |
| Midland | 18, 26 |
| Nacogdoches | 15 |
| Odessa | 7, 9, 15, 23, *28, 30 |
| Port Arthur | 27 |
| Rio Grande | 14 |
| Rosenberg | 30 |
| San Angelo | 11, 16, 19 |
| San Antonio | *9, 12, 15, *16, 24, 28, 29, 30 |
| Sherman | 12 |
| Snyder | 17 |
| Sweetwater | 20 |
| Temple | 9 |
| Texarkana | 26 |
| Tyler | 7 |
| Uvalde | 26 |
| Victoria | 11, 20 |
| Waco | 10, *20, 26, 28 |
| Weslaco | 13 |
| Wichita Falls | 15, 22, 28 |
| Wolfforth | 23 |
| **Utah** | |
| Cedar City | 14 |
| Logan | 12 |
| Ogden | 24, 35, *36 |
| Price | 11 |
| Provo | *17, 29, 32 |
| Richfield | *19 |
| Salt Lake City | 19, 20, 23, *27, 28, 30, 34 |
| St. George | *18, 21 |
| Vernal | 16 |
| **Vermont** | |
| Burlington | 7, 16, 20, *32 |

| Community | Channel No. |
|---|---|
| Montpelier | S |
| Rutland | *10 |
| St. Johnsbury | *28 |
| Windsor | *S |
| **Virginia** | |
| Arlington | 15 |
| Ashland | 8 |
| Bristol | 35 |
| Charlottesville | 2, *26, 32 |
| Culpeper | *S |
| Danville | S |
| Grundy | 14 |
| Hampton | 11 |
| Hampton-Norfolk | *31 |
| Harrisonburg | 20 |
| Lynchburg | 7, 21 |
| Manassas | 35 |
| New Market | *S |
| Norfolk | 16, 32, 33 |
| Petersburg | 28 |
| Portsmouth | 19, 20 |
| Richmond | 10, *22, 23, 24, *29 |
| Roanoke | *3, 27, 30, 34, 36 |
| Spotsylvania | *S |
| Staunton | *12 |
| Virginia Beach | 7, 21 |
| **Washington** | |
| Bellevue | 24, 33 |
| Bellingham | 14, 19 |
| Centralia | *19 |
| Everett | 31 |
| Kennewick | 27 |
| Pasco | 18 |
| Pullman | *10, 24 |
| Richland | *22, 26 |
| Seattle | *9, 16, 23, 25, 30, 36 |
| Spokane | *7, 13, 15, 20, 28, 34, 36 |
| Tacoma | 11, 13, 21, *27, *34 |
| Vancouver | 30 |
| Walla Walla | 9 |
| Yakima | 14, 16, *21, 33 |
| **West Virginia** | |
| Bluefield | 17, 25 |
| Charleston | 18, 24, 29 |
| Clarksburg | 12, 13 |
| Grandview | *8 |
| Huntington | *9, 10, 22 |
| Lewisburg | 11 |
| Martinsburg | 13 |
| Morgantown | *34 |
| Oak Hill | 31 |
| Parkersburg | 35 |
| Weston | 5 |
| Wheeling | 7 |
| **Wisconsin** | |
| Antigo | 19 |
| Appleton | 36 |
| Chippewa Falls | 21 |
| Crandon | 13 |
| Eagle River | 26, 28 |
| Eau Claire | 17, 25 |
| Fond du Lac | 5 |
| Green Bay | 14, 18, 22, 23, *25 |
| Janesville | 21 |
| Kenosha | 30 |
| La Crosse | 8, *15, 28, 33 |

| Community | Channel No. |
|---|---|
| Madison | 11, 18, 19, *20, 26 |
| Mayville | 34 |
| Menomonie | *27 |
| Milwaukee | *8, 27, 28, 29, 31, 32, S, *S |
| Park Falls | *36 |
| Racine | S |
| Rhinelander | 16 |
| Superior | 19 |
| Suring | 15 |
| Wausau | 7, 9, *24 |
| Wittenberg | 31 |
| **Wyoming** | |
| Casper | *8, 12, 14, 17, 20 |
| Cheyenne | 11, 27, 30 |
| Jackson | 11 |
| Lander | 7, *8 |
| Laramie | *8 |
| Rawlins | 9 |
| Riverton | 10 |
| Rock Springs | 13 |
| Sheridan | 7, 13 |
| **Guam** | |
| Hagåtña | 8, 12 |
| Tamuning | 14 |
| **Puerto Rico** | |
| Aguada | 25 |
| Aguadilla | 12, 17 |
| Arecibo | 35 |
| Bayamón | S |
| Caguas | 11, *24 |
| Carolina | 30 |
| Fajardo | 13, *15, 16 |
| Guayama | 34 |
| Humacao | 23 |
| Mayagüez | 20, 29, 31, 32 |
| Naranjito | 18 |
| Ponce | 7, 9, 14, *19, 36, S |
| San Juan | 21, *26, 27, 28, S |
| San Sebastián | 33 |
| Toa Baja | *S |
| Yauco | S |
| **US Virgin Islands** | |
| Charlotte Amalie | 17, 21, *36 |
| Christiansted | 20, 23 |

■ 10. Section 73.623 is amended by revising paragraph (a) and by removing and reserving paragraphs (c) and (g).

The revision reads as follows:

**§ 73.623 DTV applications and changes to DTV allotments.**

(a) *General.* This section contains the technical criteria for evaluating applications requesting DTV facilities that do not conform to the provisions of § 73.622 and petitions for rulemaking to amend the DTV Table of Allotments (§ 73.622(b)). Petitions to amend the DTV Table (other than those also expressly requesting amendment of this section) and applications for new DTV broadcast stations or for changes in authorized DTV stations filed pursuant to this section will not be accepted for filing if they fail to comply with the requirements of this section. Petitions for rule making and applications seeking facilities that will operate after the end of the DTV transition must also comply with § 73.616.

* * * * *

■ 11. Section 73.625 is amended by revising paragraph (a)(1) to read as follows:

**§ 73.625 DTV coverage of principal community and antenna system.**

(a) * * *

(1) The DTV transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum F(50,90) field strength in dB above one uV/m will be provided over the entire principal community to be served:

| | |
|---|---|
| Channels 2–6 | 35 dBu. |
| Channels 7–13 | 43 dBu. |
| Channels 14–36 | 48 dBu. |

* * * * *

■ 12. Section 73.681 is amended by revising the definition of ''Television broadcast band'' to read as follows:

**§ 73.681 Definitions.**

* * * * *

*Television broadcast band.* The frequencies in the band extending from 54 to 608 megahertz which are assignable to television broadcast stations. These frequencies are 54 to 72 megahertz (channels 2 through 4), 76 to 88 megahertz (channels 5 and 6), 174 to 216 megahertz (channels 7 through 13), and 470 to 608 megahertz (channels 14 through 36).

* * * * *

■ 13. Section 73.687 is amended by revising paragraphs (a)(1) and (4), (e)(3), (e)(4) introductory text, and (e)(4)(i) to read as follows:

**§ 73.687 Transmission system requirements.**

(a) * * *

(1) The field strength or voltage of the lower sideband, as radiated or dissipated and measured as described in paragraph (a)(2) of this section, shall not be greater than −20 dB for a modulating frequency of 1.25 MHz or greater and in addition, for color, shall not be greater than −42 dB for a modulating frequency of 3.579545 MHz (the color subcarrier frequency). For both monochrome and color, the field strength or voltage of the upper sideband as radiated or dissipated and measured as described in paragraph (a)(2) of this section shall not be greater than −20 dB for a modulating frequency of 4.75 MHz or greater. For stations operating on Channels 15–36 and employing a transmitter delivering maximum peak visual power output of 1 kW or less, the field strength or voltage of the upper and lower sidebands, as radiated or dissipated and measured as described in paragraph (a)(2) of this section, shall depart from the visual amplitude characteristic (Figure 5a of § 73.699) by no more than the following amounts:

* * * * *

(4) The radio frequency signal, as radiated, shall have an envelope as would be produced by a modulating signal in conformity with § 73.682 and Figure 6 or 7 of § 73.699, as modified by vestigial sideband operation specified in Figure 5 of § 73.699. For stations operating on Channels 15–36 the radio frequency signal as radiated, shall have an envelope as would be produced by a modulating signal in conformity with § 73.682 and Figure 6 or 7 of § 73.699.

* * * * *

(e) * * *

(3) TV broadcast stations operating on Channel 14 must take special precautions to avoid interference to adjacent spectrum land mobile radio service facilities. Where a TV station is authorized and operating prior to the authorization and operation of the land mobile facility, a Channel 14 station must attenuate its emissions within the frequency range 467 to 470 MHz if necessary to permit reasonable use of the adjacent frequencies by land mobile licensees.

(4) The requirements listed below apply to permittees authorized to construct a new station on TV Channel 14, and to licensees authorized to change the channel of an existing station to Channel 14, to increase effective radiated power (ERP) (including any change in directional antenna characteristics that results in an increase in ERP in any direction), or to change the transmitting location of an existing station.

(i) For the purposes of this paragraph (e), a protected land mobile facility is a receiver that is intended to receive transmissions from licensed land mobile stations within the frequency band below 470 MHz, and is associated with one or more land mobile stations for which a license has been issued by the Commission, or a proper application has been received by the Commission prior to the date of the filing of the TV construction permit application. However, a land mobile facility will not be protected if it is proposed in an application that is denied or dismissed and that action is no longer subject to Commission review. Further, if the land mobile station is not operating when the TV facility commences operation and it does not commence operation within the time permitted by its authorization in accordance with part 90 of this chapter, it will not be protected.

* * * * *

■ 14. Section 73.699 is amended by revising Figures 10b and 10c to read as follows:

**§ 73.699 TV engineering charts.**

* * * * *

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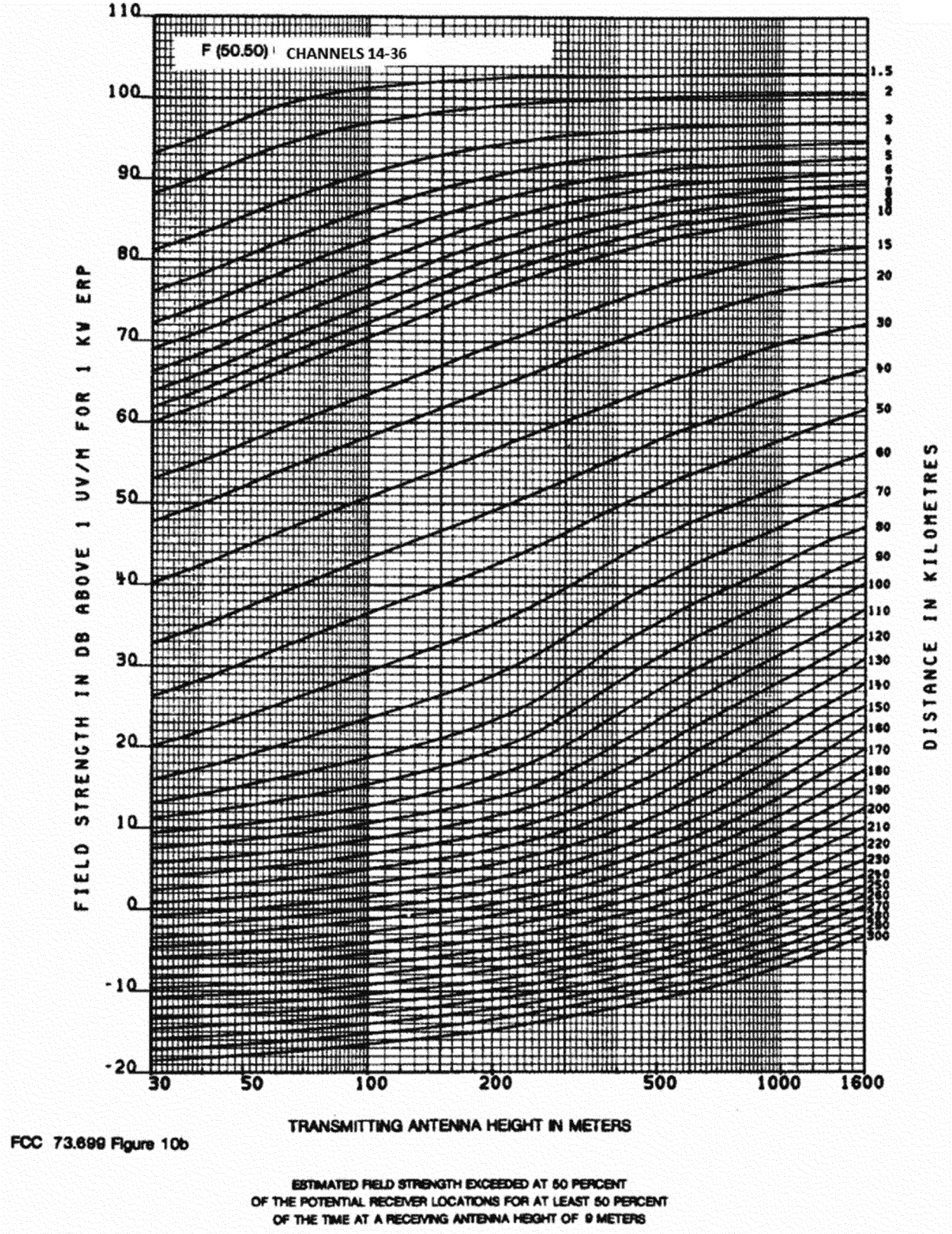
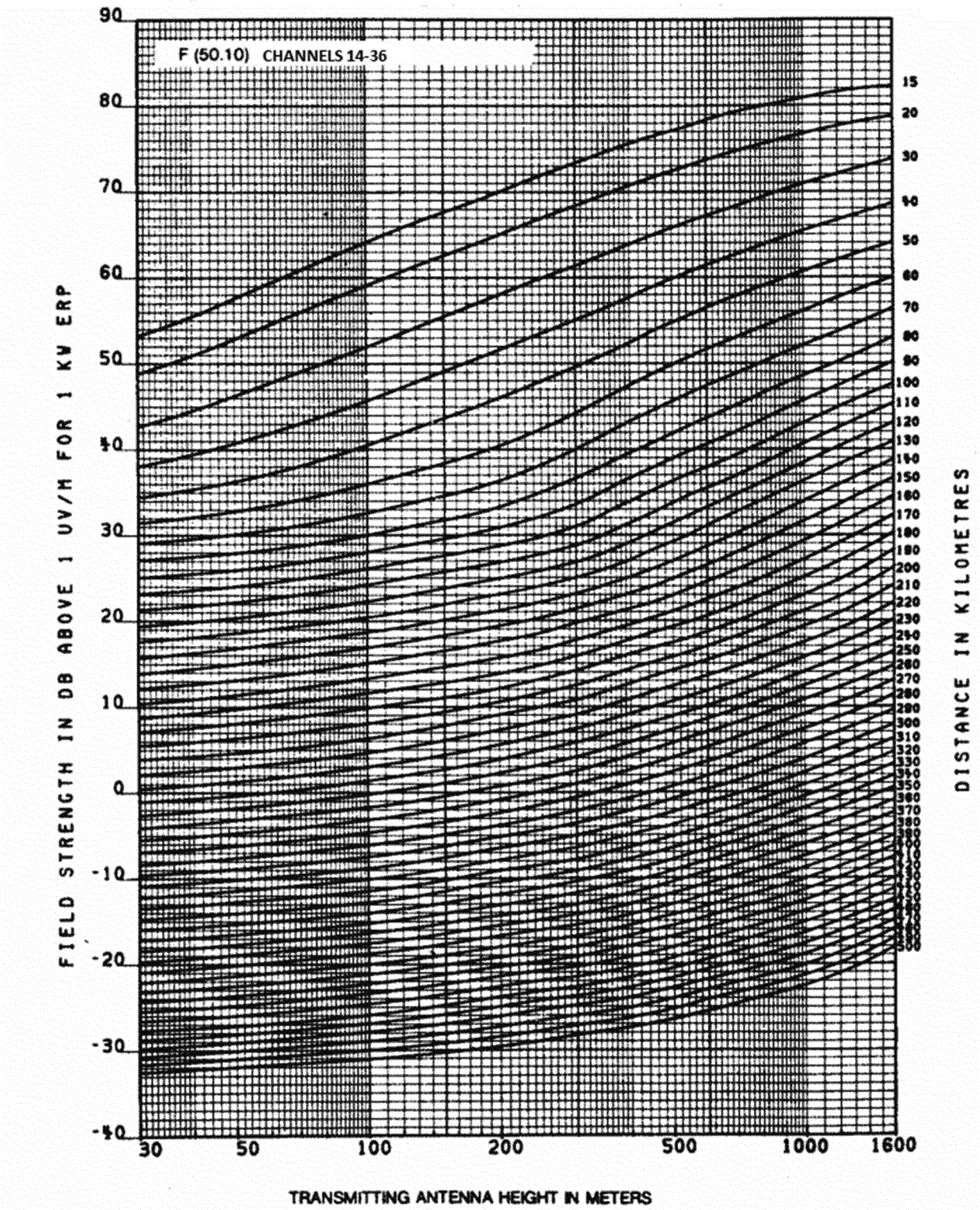



FCC 73.699 Figure 10b

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS




FCC 73.699 Figure 10c

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 10 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS

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* * * * *

■ 15. Section 73.1690 is amended by revising paragraphs (b)(8) and (c)(3) and (4) to read as follows:

**§ 73.1690 Modification of transmission systems.**

* * * * *

(b) * * *

(8) A commercial TV or noncommercial educational TV station operating on Channels 14 or a Class A TV station on Channel 14 may increase its horizontally or vertically polarized ERP only after the grant of a construction permit. A television or Class A television station on Channels 15 through 21 within 341 km of a cochannel land mobile operation, or 225 km of a first-adjacent channel land mobile operation, must also obtain a construction permit before increasing the horizontally or vertically polarized ERP (*see* § 74.709(a) and (b) of this chapter for tables of urban areas and corresponding reference coordinates of potentially affected land mobile operations).

* * * * *

(c) * * *

(3) A directional TV on Channels 2 through 13 or 22 through 36 or a directional Class A TV on Channels 2 through 13 or 22 through 36, or a directional TV or Class A TV station on Channels 15 through 21 which is in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (*see* § 74.709(a) and (b) of this chapter for tables of urban areas and reference coordinates of potentially affected land mobile operations), may replace a directional TV or Class A TV antenna by a license modification application, if the proposed horizontal theoretical directional antenna pattern does not exceed the licensed horizontal directional antenna pattern at any azimuth and where no change in effective radiated power will result. The modification of license application on Form 302–TV or Form 302–CA must contain all of the data set forth in § 73.685(f) or § 73.6025(a), as applicable.

(4) Commercial and noncommercial educational FM stations operating on Channels 221 through 300 (except Class D), Class A TV stations operating on Channels 2 through 13 and 22 through 36, and TV and Class A TV stations operating on Channels 15 through 21 that are in excess of 341 km (212 miles) from a cochannel land mobile operation or in excess of 225 km (140 miles) from a first-adjacent channel land mobile operation (*see* § 74.709(a) and (b) of this chapter for tables of urban areas and reference coordinates of potentially affected land mobile operations), which operate omnidirectionally, may increase the vertically polarized effective radiated power up to the authorized horizontally polarized effective radiated power in a license modification application. Noncommercial educational FM licensees and permittees on Channels 201 through 220, that do not use separate antennas mounted at different heights for the horizontally polarized ERP and the vertically polarized ERP, and are located in excess of the separations from a Channel 6 television station listed in Table A of § 73.525(a)(1), may also increase the vertical ERP, up to (but not exceeding) the authorized horizontally polarized ERP via a license modification application. Program test operations may commence at full power pursuant to § 73.1620(a)(1).

* * * * *

■ 16. Section 73.3572 is amended by revising paragraphs (a)(1) and (a)(4)(ii) to read as follows:

**§ 73.3572 Processing of TV broadcast, Class A TV broadcast, low power TV, TV translators, and TV booster applications.**

(a) * * *

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV broadcast stations authorized under this part is any change in frequency or community of license which is in accord with a present allotment contained in the Table of Allotments (§ 73.622(j)). Other requests for change in frequency or community of license for TV broadcast stations must first be submitted in the form of a petition for rulemaking to amend the Table of Allotments.

* * * * *

(4) * * *

(ii) Provided further, that a low power TV or TV translator or TV booster station which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized DTV station pursuant to § 74.706 of this chapter, or which is located within the distances specified in paragraph (a)(4)(iv) of this section to the coordinates of co-channel DTV authorizations (or allotment table coordinates if there are no authorized facilities at different coordinates), may at any time file a displacement relief application for a change in output channel, together with any technical modifications which are necessary to avoid interference or continue serving the station's protected service area. Such an application will not be considered as an application for a major change in those facilities. Where such an application is mutually exclusive with applications for new low power TV, TV translator, or TV booster stations, or with other nondisplacement relief applications for facilities modifications of Class A TV, low power TV, TV translator, or TV booster stations, priority will be afforded to the displacement application(s) to the exclusion of other applications.

* * * * *

**§ 73.3700 [Amended]**

■ 17. Section 73.3700 is amended by removing and reserving paragraph (f).

■ 18. Section 73.6006 is revised to read as follows:

**§ 73.6006 Channel assignments.**

Class A TV stations will not be authorized on channels unavailable for TV broadcast station use pursuant to § 73.603.

■ 19. Section 73.6010 is amended by removing and reserving paragraph (a) and revising paragraph (c).

The revision reads as follows:

**§ 73.6010 Class A TV station protected contour.**

* * * * *

(c) A digital Class A TV station will be protected from interference within the following predicted signal contours:

(1) 43 dBu for stations on Channels 2 through 6;

(2) 48 dBu for stations on Channels 7 through 13; and

(3) 51 dBu for stations on Channels 14 through 36.

* * * * *

■ 20. Section 73.7000 is amended by revising the definitions of ''Nonreserved (Unreserved) channels'' and ''Reserved channels'' to read as follows:

**§ 73.7000 Definition of terms (as used in subpart K only).**

* * * * *

*Nonreserved (Unreserved) channels.* Channels which are not reserved exclusively for noncommercial educational use, and for which commercial entities could thus be eligible to operate full power stations. Such channels appear without an asterisk designation in the FM Table of Allotments (§ 73.202) and TV Table of Allotments (§ 73.622(j)). In the event of a request to allocate a nonreserved channel as reserved pursuant to § 73.202(a) or § 73.622)(j), the channel remains classified as nonreserved until release of a Commission decision granting such request.

* * * * *

*Reserved channels.* Channels reserved exclusively for noncommercial educational use, whether by the portion of the spectrum in which they are located (*i.e.,* FM channels 200 to 220) or by a case-by-case Commission allotment decision (channels that appear with an asterisk designation in the FM Table of Allotments (§ 73.202) or TV Table of Allotments (§ 73.622(j)).

* * * * *

## PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 21. The authority citation for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336 and 554.

■ 22. Section 74.702 is amended by revising paragraph (a)(2), removing paragraph (a)(3), and revising paragraph (b).

The revisions read as follows:

### § 74.702 Channel assignments.

(a) * * *

(2) Any one of the UHF Channels from 14 to 36, inclusive, may be assigned to a UHF low power TV or TV translator station. In accordance with § 73.603(c) of this chapter, Channel 37 will not be assigned to such stations.

(b) Changes in the Table of Allotments (§ 73.622(j) of this chapter), authorizations to construct new DTV stations or to authorizations to change facilities of existing such stations, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV translator station causing actual interference to reception of the DTV station, the licensee or permittee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment pursuant to § 73.3572 of this chapter.

* * * * *

### § 74.703 [Amended]

■ 23. Section 74.703 is amended by removing and reserving paragraphs (f) and (g).

■ 24. Section 74.707 is amended by revising paragraph (a)(1)(iii) to read as follows:

### § 74.707 Low power TV and TV translator station protection.

(a) * * *

(1) * * *

(iii) 74 dBu for stations on Channels 14 through 69.

(A) Existing licensees and permittees that did not furnish sufficient data required to calculate the above contours by April 15, 1983 are assigned protected contours having the following radii:

(*1*) Up to 0.001 kW VHF/UHF—1 mile (1.6 km) from transmitter site

(*2*) Up to 0.01 kW VHF; up to 0.1 k/W UHF—2 miles (3.2 km) from transmitter site

(*3*) Up to 0.1 kW VHF; up to 1 kW UHF—4 miles (6.4 km) from transmitter site

(B) New applicants must submit the required information; they cannot rely on paragraphs (a)(1)(iii)(A)(*1*) through (*3*) of this section.

* * * * *

■ 25. Section 74.735 is amended by removing and reserving paragraph (a) and by revising paragraph (b) and paragraph (c) introductory text.

The revisions read as follows:

### § 74.735 Power limitations.

* * * * *

(b) The maximum ERP of a digital low power TV, TV translator, or TV booster station (average power) shall not exceed:

(1) 3 kW for VHF channels 2–13; and

(2) 15 kW for UHF channels 14–51.

(c) The limits in paragraph (b) of this section apply separately to the effective radiated powers that may be obtained by the use of horizontally or vertically polarized transmitting antennas, providing the applicable provisions of §§ 74.705, 74.706, 74.707 and 74.709 are met. For either omnidirectional or directional antennas, where the ERP values of the vertically and horizontally polarized components are not of equal strength, the ERP limits shall apply to the polarization with the larger ERP. Applications proposing the use of directional antenna systems must be accompanied by the following:

* * * * *

■ 26. Section 74.786 is amended by revising paragraph (c) and by removing paragraphs (d) through (g).

The revision reads as follows:

### § 74.786 Digital channel assignments.

* * * * *

(c) UHF channels 14 to 36 may be assigned to a UHF digital low power television or television translator station. In accordance with § 73.603(c) of this chapter, Channel 37 will not be assigned to such stations.

### § 74.787 [Amended]

■ 27. Section 74.787 is amended by removing paragraph (c).

■ 28. Section 74.792 is amended by revising paragraph (a)(3) to read as follows:

### § 74.792 Digital low power TV and TV translator station protected contour.

(a) * * *

(3) 51 dBu for stations on Channels 14 through 51.

* * * * *

■ 29. Section 74.795 is amended by revising paragraph (c)(1) to read as follows:

### § 74.795 Digital low power TV and TV translator transmission system facilities.

* * * * *

(c) * * *

(1) The maximum rated power output (digital average power over a 6 MHz channel) shall not exceed 30 watts for transmitters operating on channels 14–51 and 3 watts for transmitters operating on channels 2–13; and

* * * * *

[FR Doc. 2021–24937 Filed 11–19–21; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 572

**[Docket No. NHTSA–2020–0088]**

**RIN 2127–AM38**

## Anthropomorphic Test Devices; Q3s 3-Year-Old Child Side Impact Test Dummy; Incorporation by Reference

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule, response to petition for reconsideration, technical corrections.

**SUMMARY:** This document responds to a petition for reconsideration from Humanetics Innovative Solutions Inc. (HIS) concerning a November 3, 2020 final rule that amended NHTSA's regulation on anthropomorphic test devices to add design and performance specifications for a test dummy representing a 3-year-old child, called the ''Q3s'' test dummy. The Q3s is an instrumented dummy that can assess the performance of child restraint systems in protecting small children in side impacts. The petitioner asks for corrections to hole dimensions and tolerances in a few of the drawings of parts in the dummy torso, because they are in error. This final rule grants the petition and revises the drawing package, parts list, and procedures manual for assembling and inspecting the Q3s.

**DATES:** The effective date of this final rule is: December 22, 2021. The incorporation by reference of the publications listed in the rule has been approved by the Director of the Federal Register as of December 22, 2021.

*Petitions for reconsideration:* Petitions for reconsideration of this final rule must be received not later than January 6, 2022.

*Privacy Act:* The petition will be placed in the docket. Anyone is able to search the electronic form of all documents received into any of the agency's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

*Confidential Business Information:* If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. To facilitate social distancing due to COVID–19, NHTSA is treating electronic submission as an acceptable method for submitting confidential business information (CBI) to the agency under 49 CFR part 512. *https://www.nhtsa.gov/coronavirus.*

**ADDRESSES:** Petitions for reconsideration of this final rule must refer to the docket and regulatory information number (RIN) set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Note that all petitions received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** *For technical issues:* Peter Martin, NHTSA Office of Crashworthiness Standards (email *Peter.Martin@dot.gov*). *For legal issues:* Deirdre Fujita, NHTSA Office of Chief Counsel (telephone 202–366–2992) (email *Dee.Fujita@dot.gov*). Mailing address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

## I. Background

This document responds to a petition for reconsideration of a November 3, 2020 final rule that amended NHTSA's regulation on anthropomorphic test devices (ATD) (49 CFR part 572) to add design and performance specifications for a test dummy representing a 3-year-old child, called the ''Q3s'' test dummy.[1] The specifications and qualification tests for the Q3s are set forth in a new subpart W of part 572. The Q3s is an instrumented dummy that can assess the performance of child restraint systems in protecting small children in side impacts. The Q3s weighs 14.5 kilograms (kg) (32.0 pounds) and has a seated height of 556 millimeters (mm), and is representative of a 50th percentile 3-year-old child. The Q3s dummy's main parts (head, thorax, neck, shoulder, spine, abdomen, pelvis, and relevant instrumentation) and biofidelity are described in detail in the November 2020 final rule.

## II. Petition for Reconsideration

Humanetics Innovative Solutions Inc. (HIS), submitted a timely petition for reconsideration to NHTSA on December 18, 2020. The petition explained the need for corrections to several of the Q3s drawings. First, HIS explained that on drawing 020–6100, LUMBAR SPINE CABLE ASSEMBLY, the dimension across the cable swage corners is 7.10 millimeters (mm) maximum. HIS stated that it had made the determination in 2016 that this dimension would result in the cable interfering with the thru hole on parts 020–6002 and 020–6003, which have minimum thru hole dimensions of 6.97 mm. Although HIS corrected internal manufacturing drawings to reflect this change, these changes were ''inadvertently missed in the updated Q3s drawings submitted to the NHTSA in the 2016 drawing package.'' As a result, HIS's petition recommends the following:

(1) Drawing 020–6002, BRACKET, TOP LUMBAR SPINE, the THRU Hole 7.00 +0.15/−0.03, should be 7.30 +0.1/−0.5 [sic] (dimensions in mm);

(2) Drawing 020–6003, PLATE, BOTTOM LUMBAR SPINE, the THRU Hole 7.00 +0.15/−0.03, should be 7.30 +0.1/−0.5 [sic] (dimensions in mm).[2]

In addition to the above, HIS states there is a typographical error in a tolerance value on drawing 020–6003. There is currently a specification of the outside diameter of a hole chamfer stated as 9.5 ± 0.02 mm. HIS states that the 0.02 mm tolerance is an error and the correct tolerance resides in the ''tolerance box,'' which would make the tolerance on this dimension 0.2 mm.

## III. Agency Response

In response to the HIS petition, NHTSA investigated the dimensions in questions on the parts depicted in drawings 020–6002 and 020–6003. Upon initial analysis of the petition, it was apparent to the agency that HIS's recommended dimension and tolerance of 7.30 +0.1/−0.5 mm was meant to be 7.30 +0.1/−0.05 mm, *i.e.,* the minus tolerance was supposed to be −0.05, not −0.5, as the suggestion by HIS would have increased the lower tolerance by nearly 17 times. The agency contacted HIS and the petitioner verified the ''−0.5'' was an error, and that it intended the value to be ''−0.05'' instead.[3] Thus, the remainder of our analysis is based on a recommended dimension and tolerance of 7.30 +0.1/−0.05 mm.

The agency measured the parts depicted on drawings 020–6002 and 020–6003 on 4 sets of parts and found that the holes' outer diameters matched the 7.30 +0.1/−0.05 mm dimensions. Thus, the HIS recommended dimension and tolerance is acceptable. The agency notes that the specified dimension must also be modified on drawings 020–6001–U and 020–6001–2.

With respect to drawing 020–6003, NHTSA agrees that the tolerance should be ±0.2 mm, as indicated in the tolerance block for the drawing.[4] Accordingly, the 9.5 mm dimension on the drawing is now to have a range from 9.3 to 9.7 mm, inclusive.[5]

While examining the drawings associated with the parts in question, NHTSA found minor errors in drawing 020–6000–S and 020–6001–S that we are correcting in this document. First, on drawing 020–6000–S, ITEM 2 on the drawing (HEX JAM NUT, M6 X 1 ZINK, Part No. 5000144V) should be specified as a quantity of 2, rather than 1. Second, on drawing 020–6001–S, NOTES 2 and 3, need revision to indicate a jam nut is

[1] 85 FR 69898, Docket No. NHTSA–2020–0088.

[2] As explained below, HIS meant the negative tolerance to be −0.05 and not −0.5.

[3] An email from HIS acknowledging the ''0.5'' dimension is an error is in the docket for this final rule.

[4] Mechanical drawings typically have a title block in the lower right corner. This is a table providing a variety of information about the drawing, *e.g.,* drawing number, scale of the drawing, revision level, etc. The title block of the Q3s drawings contain a cell (tolerance block) that provides tolerances for the drawing that are to be applied unless otherwise specified. In the case of drawing 020–6003, the tolerance block states that dimensions specified to one-tenth of a mm are to have a ± 0.2 mm tolerance.

[5] All of the parts of all dummies measured by NHTSA were within tolerance.

being used instead of a lock nut. These corrections are explained in more detail below.

Currently, the NOTES 2 and 3 are set forth as follows:

2. CABLE (020–6100), WASHER (5000094) & LOCK NUT (5000093) MUST BE INSTALLED FOR TESTING.
3. PRE-LOAD SPINE MOLDING BY ½ TURN OF NUT.

These notes reference outdated assembly procedures that were appropriate for a lock nut. Prior to finalizing the Q3s dummy, the lock nut assembly was replaced by a jam nut assembly. This necessitated a change to the NOTES, but that was inadvertently overlooked. The corrected notes are as follows:

2. CABLE (020–6100), WASHER (5000094), & JAM NUTS (5000144V) MUST BE INSTALLED FOR TESTING.
3. APPLY TORQUE OF 2 IN.-LB. TO FIRST JAM NUT, THEN LOCK IN POSITION WITH SECOND JAM NUT.

Finally, NHTSA became award of an error in the ''Procedures for Assembly, Disassembly, and Inspection'' (PADI) related to the pubic load cell of the dummy. This error is unrelated to the changes to lumbar spine and the revisions to the engineering drawings.

The pubic load cell is contained within a subassembly that includes a rubber buffer block. It is a single-axis load cell which measures the lateral force (Fy) within the dummy's pelvis at its pubic symphysis. Depending on whether the dummy is used for a right side or a left side impact, the subassembly is flipped so that the buffer block is always placed between the load cell and the source of the impact force. Either way, the force registered by the load cell should always be negative when the pelvis is compressed. This convention is consistent with SAE J1733, Sign Convention for Vehicle Crash Testing, which is subtended by the regulatory text in § 572.219 Test Conditions and Instrumentation.

The PADI includes dummy manipulations to check all load cell polarities to assure that they wired correctly. The manipulations for the pubic load cell were mistakenly included in Table C–6, Polarity Check Data Sheet for Displacement Transducers. Also, the load cell was described as an ''external'' load cell, but it is actually an ''internal'' load cell in accordance with SAE J1733. The difference between an external vs. an internal load cell is explained in SAE J1733 and does affect the interpretation of a load.

Moreover, the PADI included separate manipulations for the right side installation and the left side installation. The right side check produced the correct polarity. However, the left side manipulation indicated a (+) polarity for pubic compression, which is incorrect according the SAE J1733.

In the revised PADI, the manipulations are moved to Table C–5, Polarity Check Data Sheet for Load Cells. The load cell is correctly categorized as an ''internal'' load cell, and a single manipulation covers the polarity check for either a right side or a left side installation. We note that a single manipulation is all that is needed to assure that the load cell registers a negative polarity when the pubic symphysis is compressed. SAE J1733 also describes a single manipulation to check the pubic load cell. The corrected manipulation is:

Pubic Load (internal load)
Channel: Fy
Dummy manipulation: Left femur rightward, right femur leftward
Polarity: (−)

## IV. Summary of Corrections

This final rule changes the regulatory text of part 572, subpart W to incorporate by reference a new drawing package, parts list, and PADI for the Q3s dummy, all dated January 2021. The new drawing package, parts list, and PADI will be placed in the same docket as the supporting material for the November 2020 file rule (Docket NHTSA–2020–0088). Although only a few drawings have been corrected in the previous drawing package, we are issuing a new drawing package because we believe it is easier for users of the Q3s to change out the whole drawing package for the ATD than having to search for and replace various individual drawings.

The following changes will be made to the drawings for the dummy:

1. The date on the coversheet of the Drawing Package will be changed to January 2021 and the revision level of the main assembly will be updated from Rev. J to Rev. K.
2. Drawing 020–6000–S will be updated to reflect a quantity of 2 for ITEM 2, instead of a quantity of 1.
3. Drawings 020–6001–S:
a. Will be updated with the dimension of 7.30 mm replacing 7.00 mm for the RUBBER MOLDING.
b. Will be updated such that NOTES 2 and 3 will reflect the use of a jam nut instead of a lock nut.
4. Drawings 020–6001–U will be updated with the dimension of 7.30 mm replacing 7.00 mm for the RUBBER MOLDING.
5. Drawing 020–6002 will be updated with the dimension 7.30 +0.1/−0.05 mm replacing the dimension 7.00 +0.1/−0.03 mm.
6. Drawing 020–6003:
a. Will be undated with the dimension 7.30 +0.1/−0.05 mm replacing the dimension 7.00 +0.1/−0.03 mm.
b. Will remove the ±0.02 mm tolerance from the dimension of 9.5 mm.

In addition, the date on the coversheet of the Parts List will be changed to January 2021 and the revision levels of the affected parts will be updated.

The following changes will be made to the PADI for the dummy:

1. *Table C–5:* Will be updated to include a manipulation for the pubic load cell so that the polarity of the Fy channel will be (−) when placed under compression.
2. *Table C–6:* Pubic load cell manipulations will be removed from this table.

In addition, the date on the coversheet of the PADI will be changed to January 2021.

## V. Rulemaking Analyses and Notices

### *Executive Order 12866, and DOT Regulatory Policies*

NHTSA has reviewed this final rule under the Department of Transportation's administrative rulemaking orders and procedures. This rulemaking is not significant under E.O. 12866 and was not reviewed by the Office of Management and Budget (OMB). The underlying final rule incorporating the Q3s test dummy into 49 CFR part 572 was not considered significant. Specifications in part 572 do not impose any requirements on anyone. Businesses are affected only if they choose to manufacture or test with an ATD in part 572. Further, this final rule simply corrects errors in the drawing package of the dummy to reflect how it has been manufactured for the past several years. As such, this final rule has minimal impact on costs or benefits. Accordingly, no further regulatory evaluation is necessary.

### *Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which

operates primarily within the United States.'' (13 CFR 121.105(a)).

NHTSA has considered the effects of this rulemaking under the Regulatory Flexibility Act. I hereby certify that this rulemaking action will not have a significant economic impact on a substantial number of small entities. This action will not have a significant economic impact on a substantial number of small entities because this final rule simply corrects errors in the drawing package of the Q3s dummy to reflect how it has been manufactured for the past several years. Thus, this final rule has minimal impact on costs or benefits. In addition, specifications in part 572 do not impose any requirements on anyone. Businesses are affected only if they choose to manufacture or test with the dummy. NHTSA will use the ATD in agency testing but does not require anyone to manufacture the dummy or to test motor vehicles or motor vehicle equipment with it.

*National Environmental Policy Act*

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

*Executive Order 13045 and 13132 (Federalism)*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, NHTSA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency. This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that this final rule will not have federalism implications because the rule would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule will not impose any requirements on anyone. Businesses will be affected only if they choose to manufacture or test with the dummy.

Further, no consultation is needed to discuss the preemptive effect of today's final rule. NHTSA's safety standards can have preemptive effect in two ways, but this rule amends 49 CFR part 572 and is not a safety standard.[6] This part 572 final rule will not impose any requirements on anyone.

*Civil Justice Reform*

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement. Pursuant to this Order, NHTSA notes as follows.

The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

*Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid control number from the Office of Management and Budget (OMB). This final rule will not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR part 1320.

*National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs NHTSA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. There are no voluntary consensus standards relevant to this final rule.

*Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. This final rule will not impose any unfunded mandates under the UMRA. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone.

*Incorporation by Reference*

Under regulations issued by the Office of the Federal Register (1 CFR 51.5(a)), an agency, as part of a final rule that includes material incorporated by reference, must summarize in the preamble of the final rule the material it incorporates by reference and discuss

[6] With respect to the safety standards, the National Traffic and Motor Vehicle Safety Act contains an express preemptive provision: ''When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' 49 U.S.C. 30103(b)(1). Second, the Supreme Court has recognized the possibility of implied preemption: State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict exists, the Supremacy Clause of the Constitution makes the State requirements unenforceable. *See Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

the ways the material is reasonably available to interested parties or how the agency worked to make materials available to interested parties.

In this final rule, NHTSA incorporates by reference a new technical data package for the Q3s consisting of a set of engineering drawings for the test dummy, and a parts list. Q3s dummies manufactured to meet the qualification requirements and the technical data package will be uniform in their design, construction, and response to impact forces.

NHTSA has placed a copy of the updated technical data package in the docket listed at the beginning of this document. Interested persons can download a copy of the materials or view the materials online by accessing *www.Regulations.gov.* Telephone: 1–877–378–5457. The material is also available for inspection at the Department of Transportation, Docket Operations, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC. Telephone: 202–366–9826. The material is also available for inspection by contacting NHTSA's Chief Counsel's Office at the phone number and address set forth in the **FOR FURTHER INFORMATION** section of this document. The material is available for review at NHTSA and is available for purchase from SAE International.

*Plain Language*

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

Has the agency organized the material to suit the public's needs?

Are the requirements in the rule clearly stated?

Does the rule contain technical language or jargon that is not clear?

Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

Would more (but shorter) sections be better?

Could the agency improve clarity by adding tables, lists, or diagrams?

What else could the agency do to make this rulemaking easier to understand?

If you have any responses to these questions, please send them to NHTSA.

*Regulation Identifier Number*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

**List of Subjects in 49 CFR Part 572**

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, NHTSA amends 49 CFR part 572 as follows:

## PART 572—ANTHROPOMORPHIC TEST DEVICES

■ 1. The authority citation for Part 572 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

## Subpart W—Q3s Three-Year-Old Child Test Dummy

■ 2. Section 572.210 is amended by revising paragraphs (a)(1), (2) and (3), to read as follows:

* * * * *

**§ 572.210 Incorporation by reference.**

(a) * * *

(1) A parts/drawing list entitled, ''Parts/Drawings List, Part 572 Subpart W, Q3s Three-Year-Old Child Side Impact Dummy'' dated (and revised) January 2021 (Parts/Drawings List); IBR approved for § 572.211.

(2) A drawings and inspection package entitled, ''Drawings and Specifications for Q3s Three-Year-Old Child Side Impact Dummy, Part 572 Subpart W'' dated (and revised) January 2021 (Drawings and Specifications); IBR approved for §§ 572.211, 572.212, 572.213, 572.214, 572.215, 572.216, 572.217, 572.218, and 572.219.

(3) A procedures manual entitled ''Procedures for Assembly, Disassembly, and Inspection (PADI) of the Q3s Child Side Impact Crash Test Dummy'' dated January 2021 (PADI); IBR approved for §§ 572.211, 572.215(b), 572.216(b), and 572.219(a).

* * * * *

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95, 501.4, and 501.5.

**Steven Cliff,**

*Deputy Administrator.*

[FR Doc. 2021–25219 Filed 11–19–21; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 210616–0131; RTID 0648–XB564]**

## Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2021 Tribal Fishery Allocations for Pacific Whiting; Reapportionment Between Tribal and Non-Tribal Sectors

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

**ACTION:** Inseason reapportionment of tribal Pacific whiting allocation.

**SUMMARY:** This document announces the reapportionment of 34,645 metric tons of Pacific whiting from the tribal allocation to the non-tribal commercial fishery sectors via automatic action on September 15, 2021. This reapportionment is to allow full utilization of the Pacific whiting resource.

**DATES:** The reapportionment of Pacific whiting went into effect at 12 p.m. local time, September 15, 2021, and is effective through December 31, 2021. Comments will be accepted through December 7, 2021.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2021–0112 by any of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0112 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

**Electronic Access**

This document is accessible online at the Office of the Federal Register's

website at *https://www.federalregister.gov/.* Background information and documents are available at the NMFS West Coast Region website at *https://www.fisheries.noaa.gov/region/west-coast.*

**FOR FURTHER INFORMATION CONTACT:** Colin Sayre (West Coast Region, NMFS), phone: (206) 526–4656 or email: *Colin.Sayre@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Background

*Pacific Whiting*

Pacific whiting (*Merluccius productus*) is a very productive species with highly variable recruitment (the biomass of fish that mature and enter the fishery each year) and a relatively short life span compared to other groundfish species. Pacific whiting has the largest annual allowable harvest levels (by volume) of the more than 90 groundfish species managed under the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. The coastwide Pacific whiting stock is managed jointly by the United States and Canada, and mature Pacific whiting are commonly available to vessels operating in U.S. waters from April through December. Background on the stock assessment, and the establishment of the 2021 Total Allowable Catch (TAC), for Pacific whiting was provided in the final rule for the 2021 Pacific whiting harvest specifications, published June 23, 2021 (86 FR 32804). Pacific whiting is allocated to the Pacific Coast treaty tribes (tribal fishery) and to three non-tribal commercial sectors: The catcher/processor cooperative (C/P Co-op), the mothership cooperative (MS Co-op), and the Shorebased Individual Fishery Quota (IFQ) Program.

This notice announces the reapportionment of 34,645 metric tons (mt) of Pacific whiting from the tribal allocation to the non-tribal commercial sectors. This reapportionment was effective on September 15, 2021. Regulations at 50 CFR 660.131(h) contain provisions that allow the Regional Administrator to reapportion Pacific whiting from the tribal allocation, specified at 50 CFR 660.50, that will not be harvested by the end of the fishing year to other sectors.

*Pacific Whiting Reapportionment*

For 2021, the Pacific Coast treaty tribes were allocated 64,645 mt of Pacific whiting. The best available information on September 15, 2021, indicated that at least 34,645 mt of the tribal allocation would not be harvested by December 31, 2021. As required under the 2017 Endangered Species Act (ESA) Section 7(a)(2) biological opinion on the effects of the Pacific Coast Groundfish Fishery Management Plan on listed salmonids, NMFS considered the number and bycatch rate of Chinook salmon taken by the Pacific whiting fishery sectors prior to reapportionment. Based on the best available information in early September 2021, NMFS determined there was little risk that the reapportionment would cause the Pacific whiting sector fisheries to exceed the guideline limit of 11,000 Chinook salmon under current regulations and practices. In early September, incidental take of Chinook salmon by the non-tribal sector was 4 percent of the guideline limit. While the incidental take of Chinook salmon was higher compared to the same period in the previous year, the total take this year is still well below the guideline limit.

To allow for increased utilization of the resource, on September 15, 2021, NMFS reapportioned 34,645 mt from the Tribal sector to the Shorebased IFQ Program, C/P Co-op, and MS Co-op in proportion to each sector's original allocation. Reapportioning this amount is expected to allow for greater attainment of the TAC while not limiting tribal harvest opportunities for the remainder of the year. NMFS provided notice of the reapportionment on September 15, 2021, via emails sent directly to fishing businesses and individuals. Reapportionment was effective the same day as the notice.

The amounts of Pacific whiting available for 2021 before and after the reapportionment are described in Table 1 below.

TABLE 1—2020 PACIFIC WHITING ALLOCATIONS

| Sector | Initial 2021 allocation (mt) | Final 2021 allocation (mt) |
|---|---|---|
| Tribal | 64,645.0 | 30,000.0 |
| C/P Coop | 103,362.0 | 115,141.3 |
| MS Coop | 72,961.0 | 81,275.8 |
| Shorebased IFQ Program | 127,682.0 | 142,232.9 |

## Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 660.55 (i), 660.60(d), and 660.131(h), and is exempt from review under Executive Order 12866.

NOAA's Assistant Administrator for Fisheries (AA) finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B), because such notification would be impracticable and contrary to the public interest. As previously noted, NMFS provided actual notice of the reapportionment to fishery participants at the time of the action. Prior notice and opportunity for public comment on this reapportionment was impracticable because NMFS had insufficient time to provide prior notice between the time the information about the progress of the fishery needed to make this determination became available and the time at which fishery modifications had to be implemented in order to allow fishery participants access to the available fish during the remainder of the fishing season. For the same reasons, the AA also finds good cause to waive the 30-day delay in effectiveness for these actions, required under 5 U.S.C. 553(d)(3).

**Authority:** 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 7001 *et seq.*

Dated: November 16, 2021.

**Ngagne Jafnar Gueye,**

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

[FR Doc. 2021–25369 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 86, No. 222
Monday, November 22, 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.

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1003

**[Docket No. CFPB–2021–0018]**

## Request for Information Regarding the HMDA Rule Assessment

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

**ACTION:** Notification of assessment; request for public comment.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is conducting an assessment of the 2015 Home Mortgage Disclosure Act (HMDA) Rule and related amendments in accordance with section 1022(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau is requesting public comment on its plans for the assessment as well as certain recommendations and information that may be useful in conducting the planned assessment.

**DATES:** Comments must be received on or before January 21, 2022.

**ADDRESSES:** You may submit comments, identified by Docket No. CFPB–2021–0018, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: 2021-HMDA-RFI@cfpb.gov.*
- *Mail/Hand Delivery/Courier:* Comment Intake—HMDA Assessment, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

*Instructions:* The Bureau encourages the early submission of comments. All submissions should include document title and docket number. Because paper mail in the Washington, DC, area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *https://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. At that time, you can make an appointment to inspect the documents by telephoning 202–435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT:** Katherine LoPiccalo, Economist, Research; Patrick Orr, Policy Analyst, Markets; Shaakira Gold-Ramirez, Counsel, or Alexandra Reimelt, Senior Counsel, Regulations; Division of Research, Markets, and Regulations at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

For over 45 years, the Home Mortgage Disclosure Act (HMDA) has provided the public with information about how financial institutions are serving the housing needs of their communities. Public officials use the information available through HMDA to develop and allocate housing and community development investments, to respond to market failures when necessary, and to monitor whether financial institutions may be engaging in discriminatory lending practices. The data are used by the mortgage industry to inform business practices, and by local communities to ensure that lenders are serving the needs of individual neighborhoods. To maintain the data's usefulness in serving its goals, HMDA and its implementing Regulation C have been updated and expanded over time in response to the changing needs of homeowners and the evolution of the mortgage market.

The Bureau is conducting a voluntary assessment of the final rule on HMDA the Bureau issued in October 2015 (2015 HMDA Final Rule) [1] and related amendments (collectively, the HMDA Rule) in order to evaluate the effectiveness of the HMDA Rule in meeting its stated goals and the purposes and objectives of the Dodd-Frank Act. Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law.[2] While the Bureau determined that the HMDA Rule is not a significant rule for purposes of section 1022(d), the Bureau considers the HMDA Rule to be of sufficient importance to support the Bureau conducting a voluntary assessment that complies with the requirements of a Dodd-Frank Act assessment. Pursuant to those requirements, the Bureau must publish a report of the assessment not later than five years after the effective date of such rule or order. The assessment must address, among other relevant factors, the rule or order's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals stated by the Bureau. The assessment also must reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau must invite public comment on recommendations for modifying, expanding, or eliminating the significant rule or order.[3]

To assess the effectiveness of the HMDA Rule, the Bureau intends to focus its evaluation on the following primary topic areas: (1) Institutional coverage and transactional coverage; (2) data points; (3) benefits of the new data and disclosure requirements; [4] and (4) operational and compliance costs. The Bureau recognizes that it faces challenges in its assessment, as it may be difficult to quantify certain components such as the benefits of the

[1] Home Mortgage Disclosure (Regulation C); 80 FR 6612766128 (Oct. 28, 2015).

[2] 12 U.S.C. 5512(d).

[3] 12 U.S.C. 5512(d).

[4] The Bureau considers an evaluation of the balancing test used to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy to be outside the scope of its assessment of the HMDA Rule.

HMDA Rule. The Bureau also recognizes that, across stakeholders, there is interest and disagreement over certain aspects of the HMDA Rule, including thresholds. The Bureau has revised the institutional and transactional coverage thresholds that determine whether financial institutions are required to collect, record, and report any HMDA data on closed-end mortgage loans or open-end lines of credit in recent years. The Bureau also recently published a study on thresholds that analyzed differences in lending patterns for lenders below and above the 100-loan closed-end threshold set by the 2020 HMDA Final Rule.[5] The Bureau is inviting public comment on these and other relevant issues as part of its HMDA assessment. The Bureau views the assessment as an opportunity to evaluate whether prior HMDA rulemakings have improved upon the data collected, reduced unnecessary burden on financial institutions, and streamlined and modernized the manner in which financial institutions collect and report HMDA data. The Bureau welcomes comments from stakeholders, in particular information and data that would produce a more robust evaluation of the costs and benefits of the HMDA Rule.

Section 1094 of the Dodd-Frank Act amended HMDA and transferred HMDA rulemaking authority and other functions from the Board of Governors of the Federal Reserve System (Board) to the Bureau. In the 2015 HMDA Final Rule, the Bureau implemented the Dodd-Frank Act amendments to HMDA and made other changes to Regulation C. Most of the 2015 HMDA Final Rule took effect on January 1, 2018.[6] The Bureau issued another final rule in 2017 (2017 HMDA Final Rule) amending certain requirements adopted in the 2015 HMDA Final Rule.[7] Most of the 2017 HMDA Final Rule provisions also took effect on January 1, 2018. The Bureau issued an interpretive and procedural rule in 2018 (2018 HMDA Rule) to implement and clarify the requirements of section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which was enacted in May 2018 and amended HMDA by adding partial exemptions from certain reporting requirements.[8] Additionally, the Bureau issued final rules in 2019 and 2020 (2019 and 2020 HMDA Final Rules, respectively) that amended certain aspects of Regulation C after most of the 2015 HMDA Final Rule took effect.[9]

For purposes of this request for information (RFI) and the assessment, except as otherwise noted, the Bureau refers to the 2015 HMDA Final Rule and the subsequent HMDA rules issued in 2017, 2018, 2019, and 2020 collectively as ''the HMDA Rule''.[10] Additionally, the Bureau believes that, based on the modifications to reporting requirements adopted in the 2017, 2018, 2019, and the 2020 rules, it may be difficult to isolate the separate effects of each of the 2015 HMDA Final Rule and the related subsequent rules during this assessment. The Bureau has determined that considering all of these rules together will facilitate a more meaningful assessment of the HMDA Rule. Specifically, the Bureau is incorporating into the assessment all rules that implicate calendar-year HMDA data beginning with data collected in 2018 through data collected in 2021.

As discussed in more detail in part III.B, the Bureau has determined that the HMDA Rule is not a significant rule for purposes of section 1022(d) and therefore the Bureau is not required to conduct an assessment under the Dodd-Frank Act. However, the Bureau considers the HMDA Rule to be of sufficient importance to support the Bureau conducting a voluntary assessment. In this document, the Bureau is requesting public comment on the issues identified below regarding the HMDA Rule as part of the planned voluntary assessment.

## II. The Assessment Process

Assessments are for informational purposes only and are not part of any formal or informal rulemaking proceedings under the Administrative Procedure Act. The Bureau plans to consider relevant comments, available data, and any other relevant information as it conducts the assessment and prepares an assessment report. The Bureau does not, however, expect that it will respond in the assessment report to each comment received pursuant to this document. Furthermore, the Bureau does not anticipate that the assessment report will include specific proposals by the Bureau to modify any rules, although the findings made in the assessment may help to inform the Bureau's general understanding of implementation costs and regulatory benefits for future rulemakings.[11] Upon completion of the assessment, the Bureau anticipates issuing an assessment report not later than January 1, 2023.

## III. The Home Mortgage Disclosure Act Rule

Regulation C implements HMDA, 12 U.S.C. 2801 through 2810. Adopted in 1975, HMDA requires certain depository institutions and for-profit nondepository institutions to collect, report, and disclose data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). The purposes of HMDA are to provide the public with loan data that can be used: (i) To help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.[12]

In 2010, Congress enacted the Dodd-Frank Act, which amended HMDA and transferred HMDA rulemaking authority and other functions from the Board to the Bureau.[13] Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that institutions

[5] ''A Brief Note on General Lending Patterns of Small to Medium Size Closed-end HMDA Reporters,'' HMDA Data Point, June 14, 2021, *https://www.consumerfinance.gov/data-research/research-reports/a-brief-note-on-general-lending-patterns-small-to-medium-size-closed-end-hmda-reporters/*.

[6] 80 FR 66128, 66256–57 (Oct. 28, 2015). The amendments to the institutional coverage criteria for depository institutions took effect on January 1, 2017. 12 CFR 1003.2(g)(1)(v)(A). The quarterly reporting requirements for certain larger-volume institutions took effect on January 1, 2020. 12 CFR 1003.5(a)(1)(ii).

[7] Home Mortgage Disclosure (Regulation C); 82 FR 43088 (Sept. 13, 2017).

[8] Public Law 115–174, 132 stat. 1296 (2018); Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), 83 FR 45325 (Sept. 7, 2018). The 2018 HMDA Rule did not amend the text of Regulation C. The Bureau later incorporated the interpretations and procedures from the 2018 HMDA Rule into Regulation C in the 2019 HMDA Final Rule.

[9] Home Mortgage Disclosure (Regulation C), 84 FR 57946 (Oct. 29, 2019); Home Mortgage Disclosure (Regulation C), 85 FR 28364 (May 12, 2020).

[10] Certain provisions in the 2020 HMDA Final Rule that would not go into effect until January 2022, such as the increase in the open-end coverage threshold, are not being considered under this assessment.

[11] The Bureau announces its rulemaking plans in semiannual updates of its rulemaking agenda, which are posted as part of the Federal Government's Unified Agenda of Regulatory and Deregulatory Actions. The current Unified Agenda can be found here: *https://www.reginfo.gov/public/do/eAgendaMain*.

[12] 12 CFR 1003.1.

[13] Public Law 111–203, 124 stat. 1376, 1980, 2035–38, 2097–101 (2010).

must compile, maintain, and report under HMDA. This introduction to part III provides a high-level overview of each of the rules. The major provisions of the HMDA Rule are discussed in more detail in part III.A, below.[14]

In the 2015 HMDA Final Rule, the Bureau implemented the Dodd-Frank Act amendments to HMDA and made other changes to Regulation C. The 2015 HMDA Final Rule modified the types of institutions and transactions subject to Regulation C, including by adopting new loan volume thresholds for determining which institutions are covered under Regulation C and must report HMDA data for their closed-end mortgage loans and open-end lines of credit (coverage thresholds, collectively). The 2015 HMDA Final Rule also modified the types of data that institutions are required to collect and report by adding new data points to Regulation C and revising certain pre-existing data points. Additionally, the 2015 HMDA Final Rule revised the processes for financial institutions to report and disclose the required data and the determination of which data would be publicly disclosed.[15]

In August 2017, the Bureau issued the 2017 HMDA Final Rule, which made technical corrections to, and clarified certain requirements adopted by, the 2015 HMDA Final Rule. This rule also increased temporarily the open-end coverage threshold for calendar years 2018 and 2019.

In 2018, Congress enacted the EGRRCPA.[16] Section 104(a) of the EGRRCPA amended HMDA section 304(i) by adding partial exemptions from HMDA's requirements for certain insured depository institutions and insured credit unions. The EGRRCPA provides that an insured depository institution or insured credit union does not need to collect or report certain data with respect to its closed-end mortgage loans if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. Similarly, the EGRRCPA provides that an insured depository institution or insured credit union does not need to collect or report certain data with respect to open-end lines of credit if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. In August 2018, the Bureau issued the 2018 HMDA Rule to implement and clarify the requirements of section 104(a) of the EGRRCPA.[17]

In October 2019, the Bureau issued the 2019 HMDA Final Rule, which extended for two years, until January 1, 2022, the temporary increase in the open-end coverage threshold adopted by the 2017 HMDA Final Rule. This rule also incorporated into Regulation C the interpretations and procedures from the 2018 HMDA Rule and implemented further the EGRRCPA.[18]

In April 2020, the Bureau issued the 2020 HMDA Final Rule, which increased the closed-end coverage threshold effective July 1, 2020, and the permanent level of the open-end coverage threshold effective January 1, 2022, upon the expiration of the temporary threshold.[19]

The major provisions of the HMDA Rule are summarized below.

*A. Major Provisions of the HMDA Rule*

The HMDA Rule contains four major elements: (1) Institutional coverage and loan-volume thresholds; (2) transactional coverage; (3) data points; and (4) disclosure and reporting requirements.

1. Institutional Coverage and Loan-Volume Thresholds

Regulation C requires financial institutions to report HMDA data. Section 1003.2(g) defines financial institution for purposes of Regulation C and sets forth Regulation C's institutional coverage criteria for depository financial institutions and nondepository financial institutions.[20] The HMDA Rule amended the Board's pre-existing institutional coverage criteria that determine which institutions meet the definition of financial institution and are required to report HMDA data.

The HMDA Rule includes uniform coverage thresholds based on loan origination volume that determine, in part, whether institutions are required to collect, record, and report any HMDA data on closed-end mortgage loans or open-end lines of credit. Under the institutional coverage criteria set forth in the HMDA Rule, depository institutions and nondepository institutions are required to report HMDA data if they: (1) Meet either the closed-end or open-end coverage threshold in each of the two preceding calendar years, and (2) meet all of the other applicable criteria for institutional coverage. Financial institutions that meet only the closed-end coverage threshold are not required to report data on their open-end lines of credit, and financial institutions that meet only the open-end coverage threshold are not required to report data on their closed-end mortgage loans.[21]

The Bureau has amended the levels of the coverage thresholds several times since the enactment of the Dodd-Frank Act. The 2015 HMDA Final Rule set the closed-end coverage threshold at 25 closed-end mortgage loans and the open-end coverage threshold at 100 open-end lines of credit. As a result, an institution that originated at least 25 closed-end mortgage loans or at least 100 open-end lines of credit in each of the two preceding calendar years, and met all of the other applicable criteria for institutional coverage, met the definition of financial institution and was required to report HMDA data.

Prior to the 2015 HMDA Final Rule taking effect, in the 2017 HMDA Final Rule the Bureau increased temporarily the open-end coverage threshold from 100 to 500 open-end lines of credit for calendar years 2018 and 2019. In the 2019 HMDA Final Rule, the Bureau extended the temporary increase in the open-end coverage threshold for two additional years, until January 1, 2022.[22] Effective January 1, 2022, the 2020 HMDA Final Rule sets the open-end coverage threshold at 200 open-end lines of credit, meaning that financial institutions originating at least 200 open-end lines of credit in each of the two preceding calendar years must report such data. The 2020 HMDA Final Rule also increased the closed-end coverage threshold, from 25 to 100 closed-end mortgage loans. Effective July 1, 2020, financial institutions originating at least 100 closed-end mortgage loans in each of the two preceding calendar years must report such data.[23]

**BILLING CODE 4810–AM–P**

[14] For details explaining the rationale behind each of these provisions, refer to the preamble discussion in each of the HMDA rules.

[15] 80 FR 66128 (Oct. 28, 2015). As discussed in part III.A.4 below, the Bureau explained in the 2015 HMDA Final Rule that it interpreted HMDA, as amended by the Dodd-Frank Act, to call for the use of a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public; the Bureau applied that balancing test in final policy guidance issued in December 2018 that described the loan-level HMDA data the Bureau intended to make available to the public. Disclosure of Loan-Level HMDA Data, 84 FR 649 (Jan. 31, 2019).

[16] Public Law 115–174, 132 stat. 1296 (2018).

[17] 83 FR 45325 (Sept. 7, 2018).

[18] 84 FR 57946 (Oct. 29, 2019).

[19] 85 FR 28364 (May 12, 2020).

[20] 12 CFR 1003.2(g)(1) (definition of depository financial institution); § 1003.2(g)(2) (definition of nondepository financial institution).

[21] 80 FR 66128, 66173 (Oct. 28, 2015).

[22] 82 FR 43088 (Sept. 13, 2017); 84 FR 57946 (Oct. 29, 2019).

[23] 85 FR 28364 (May 12, 2020). On October 9, 2020, the Bureau corrected several clerical errors in the Supplementary Information to the 2020 HMDA Final Rule, regarding the estimated cost savings in annual ongoing costs from various possible closed-end coverage thresholds.

**Table 1: Closed-end Reporting Threshold**

| | HMDA Calendar Year | | | | | |
|---|---|---|---|---|---|---|
| **Final Rule Year** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
| **2015** | 25 | 25 | 25 | 25 | 25 | 25 |
| **2017** | | | | | | |
| **2018** | | | | | | |
| **2019** | | | | | | |
| **2020** | | | 100 | 100 | 100 | 100 |

Note: Underlined fields refer to the thresholds for which data was or would be actually reported.

**Table 2: Open-end Reporting Threshold**

| | HMDA Calendar Year | | | | | |
|---|---|---|---|---|---|---|
| **Final Rule Year** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
| **2015** | 100 | 100 | 100 | 100 | 100 | 100 |
| **2017** | 500 | 500 | 100 | 100 | 100 | 100 |
| **2018** | | | | | | |
| **2019** | | | 500 | 500 | 100 | 100 |
| **2020** | | | | | 200 | 200 |

Note: Underlined fields refer to the thresholds for which data was or would be actually reported.

**Table 3: Partial Exemptions on Eligible Depository Institutions and Credit Unions**

| | HMDA Calendar Year | | | | | |
|---|---|---|---|---|---|---|
| **Final Rule Year** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
| **2015** | Full Reporting | Full Reporting | Full Reporting | Full Reporting | Full Reporting | Full Reporting |
| **2017** | | | | | | |
| **2018 / EGRRCPA** | Partial Exemption | Partial Exemption | Partial Exemption | Partial Exemption | Partial Exemption | Partial Exemption |
| **2019** | | | | | | |
| **2020** | | | | | | |

Note: Underlined fields refer to the thresholds for which data was or would be actually reported. The 2018 HMDA Rule interpreted the EGRRCPA to facilitate quick implementation; the 2019 HMDA Final Rule formally incorporated the partial exemptions into Regulation C.

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For depository institutions, in addition to adopting the new loan-volume coverage thresholds, the HMDA Rule retained other pre-existing institutional coverage criteria. The pre-existing criteria require reporting by depository institutions that: (1) Satisfy an asset-size threshold; (2) have a branch or home office in a Metropolitan Statistical Area (MSA) on the preceding December 31; (3) satisfy the ''federally related'' test; and (4) originated at least one first-lien home purchase loan or refinancing secured by a one- to four-unit dwelling in the previous calendar year.

For nondepository institutions, the HMDA Rule adopted the new loan-volume coverage thresholds and removed the pre-existing institutional coverage tests based on asset-size or loan originations and total loan amounts. The HMDA Rule retained the criterion that the institution had a branch or home office in an MSA on the preceding December 31.

2. Transactional Coverage

HMDA requires financial institutions to collect and report information about ''mortgage loans,'' which HMDA section 303(2) defines as loans secured by residential real property or home improvement loans. In the HMDA Rule, the Bureau modified Regulation C's transactional coverage in several ways.

First, the HMDA Rule requires some financial institutions to report data on their open-end lines of credit.[24] Previously, Regulation C allowed, but did not require, reporting of home-equity lines of credit and there was no minimum coverage threshold. As discussed in part III.A.1 above, the HMDA Rule requires financial institutions that meet the loan-volume coverage threshold for open-end lines of credit in each of the two preceding calendar years to report data on these transactions.

Additionally, the HMDA Rule moved away from the pre-existing ''loan purpose'' test and adopted a dwelling-secured standard for all loans or lines of credit that are for personal, family, or household purposes. In general, prior to the HMDA Rule, financial institutions were required to report information about closed-end applications and loans made for one of three purposes: Home improvement, home purchase, or refinancing. Under the HMDA Rule, most consumer-purpose extensions of credit secured by a lien on a dwelling are subject to Regulation C, including closed-end home-equity loans, home-equity lines of credit, and reverse mortgages. Regulation C no longer requires reporting of home improvement loans that are not secured by a dwelling (*i.e.,* home improvement loans that are unsecured or that are secured by some other type of collateral).[25]

The HMDA Rule also requires reporting of applications for, and originations of, dwelling-secured business- or commercial-purpose closed-end mortgage loans and open-end lines of credit for home purchase, refinancing, or home improvement purposes. Prior to the HMDA Rule, Regulation C covered closed-end, business- or commercial-purpose loans made to purchase, refinance, or improve a dwelling. Thus, the HMDA Rule revised coverage of business- or commercial-purpose transactions by: (1) Adding the dwelling-secured test, and (2) requiring reporting of dwelling-secured, business- or commercial-purpose open-end lines of credit for the purpose of home purchase, refinancing, or home improvement.

3. Data Points

Prior to the enactment of the Dodd-Frank Act, Regulation C required collection and reporting of 22 data points and allowed for optional reporting of one data point: The reasons for which an institution denied an application (reasons for denial). The 2015 HMDA Final Rule implemented the new data points specified in the Dodd-Frank Act, added additional data

[24] The 2015 HMDA Final Rule defined open-end line of credit as an extension of credit that: (1) Is secured by a lien on a dwelling; and (2) Is an open-end credit plan as defined in Regulation Z, 12 CFR 1026.2(a)(20), but without regard to whether the credit is consumer credit, as defined in § 1026.2(a)(12), is extended by a creditor, as defined in § 1026.2(a)(17), or is extended to a consumer, as defined in § 1026.2(a)(11).

[25] Under pre-existing Regulation C, closed-end home purchase loans and refinancings were required to be reported if they were dwelling-secured and closed-end home improvement loans were required to be reported whether or not they were dwelling-secured.

points pursuant to the Bureau's discretionary authority under HMDA section 304(b)(5) and (6), and revised certain pre-existing Regulation C data points. The 2018 HMDA Rule and 2019 HMDA Final Rule clarified which of the data points in Regulation C are covered by the EGRRCPA partial exemptions.[26]

In the 2015 HMDA Final Rule, the Bureau added the following data points to Regulation C to implement specific provisions added by the Dodd-Frank Act in HMDA section 304(b)(4), (5)(A) through (C), and (6)(A) through (I): Universal loan identifier (ULI);[27] property address; age of the applicant/borrower; rate spread for all loans;[28] credit score; total loan costs or total points and fees; prepayment penalty term; loan term; introductory rate period; non-amortizing features; property value; application channel; and mortgage loan originator identifier.[29]

Additionally, the 2015 HMDA Final Rule added the following additional data points pursuant to the Bureau's discretionary authority under HMDA section 304(b)(5) and (6): Reasons for denial, which were optionally reported under the Board's rule but became mandatory in the HMDA Rule; the total origination charges associated with the loan (origination charges); the total points paid to the lender to reduce the interest rate of the loan (discount points); the amount of lender credits; the interest rate applicable at closing or account opening; the debt-to-income ratio; the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio); for transactions involving manufactured homes, whether the loan or application is or would have been secured by a manufactured home and land or by a manufactured home and not land (manufactured home secured property type); the land property interest for loans or applications related to manufactured housing (manufactured home land property interest); the number of individual dwellings units that are income-restricted pursuant to Federal, State, or local affordable housing programs (multifamily affordable units); information related to the automated underwriting system used in evaluating an application and the result generated by the automated underwriting system; whether the loan is a reverse mortgage; whether the loan is an open-end line of credit; and whether the loan is primarily for a business or commercial purpose.[30]

The 2015 HMDA Final Rule also revised certain pre-existing Regulation C data points to provide for greater specificity or additional information in reporting.[31]

| Data points added by 2015 HMDA final rule to implement Dodd-Frank Act requirements | Data points added by 2015 HMDA final rule pursuant to discretionary authority | Data points revised by 2015 HMDA final rule to require additional information |
|---|---|---|
| • Universal Loan Identifier (ULI)<br>• Property Address<br>• Age (applicant/borrower)<br>• Rate Spread<br>• Credit Score<br>• Total Loan Costs or Total Points and Fees<br>• Prepayment Penalty Term<br>• Loan Term<br>• Introductory Rate Period<br>• Non-Amortizing Features<br>• Property Value<br>• Application Channel<br>• Mortgage Loan Originator Identifier | • Reasons for Denial<br>• Origination Charges<br>• Discount Points<br>• Lender Credits<br>• Interest Rate<br>• Debt-to-Income Ratio<br>• Combined Loan-to-Value Ratio<br>• Manufactured Home Secured Property Type<br>• Manufactured Home Land Property Interest<br>• Multifamily Affordable Units<br>• Automated Underwriting System<br>• Reverse Mortgage Flag<br>• Open-End Line of Credit Flag<br>• Business or Commercial Purpose Flag | • Loan Purpose<br>• Occupancy Type<br>• Ethnicity<br>• Race<br>• Legal Entity Identifier |

As discussed above, the EGRRCPA provides certain institutions partial exemptions from reporting certain data. As amended by the EGRRCPA, HMDA section 304(i)(1) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to closed-end mortgage loans of an insured depository institution or insured credit union if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. Additionally, HMDA section 304(i)(2) provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to open-end lines of credit of an insured depository institution or insured credit union if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. Notwithstanding the partial exemptions under the EGRRCPA, HMDA section 304(i)(3) provides that an insured depository institution must comply with HMDA section 304(b)(5) and (6) if it has received a rating of ''needs to improve record of meeting community credit needs'' during each of its two most recent examinations or a rating of ''substantial noncompliance in meeting community credit needs'' on its most recent examination under section 807(b)(2) of the Community Reinvestment Act (CRA).[32]

The 2018 HMDA Rule and the 2019 HMDA Final Rule specify that the following data points do not need to be collected and reported if a transaction qualifies for a partial exemption under the EGRRCPA: ULI; property address; rate spread; credit score; reasons for

[26] In May 2019, the Bureau issued an advance notice of proposed rulemaking (ANPR) relating to certain data points that the Bureau added or revised in the 2015 HMDA Final Rule as well as Regulation C's coverage of certain business- or commercial-purpose transactions. Home Mortgage Disclosure (Regulation C) Data Points and Coverage, 84 FR 20049 (May 8, 2019). In June 2021, the Bureau announced that it was no longer pursuing a proposed rulemaking following up on this ANPR in light of its other rulemaking priorities.

[27] Prior to the passage of the Dodd-Frank Act, the Board required reporting of an identifying number for the loan or application but did not require that the identifier be universal. HMDA section 304(b)(6)(G) requires reporting of, ''as the Bureau may determine to be appropriate, a universal loan identifier.''

[28] Prior to the passage of the Dodd-Frank Act, the Board required financial institutions to report rate spread for higher-priced mortgage loans. 67 FR 7222 (Feb. 15, 2002); 67 FR 43218 (June 27, 2002). HMDA section 304(b)(5)(B) requires reporting of rate spread for all loans.

[29] 12 CFR 1003.4(a)(1)(i), (a)(9)(i), (a)(10)(ii), and (a)(12), (15), (17), (22), (25) through (28), and (33) and (34).

[30] 12 CFR 1003.4(a)(16), (18) through (21), (23) and (24), (29) and (30), (32), and (35) through (38).

[31] These data points include the following: The purpose of the loan or application; occupancy type; ethnicity; race; and legal entity identifier (LEI).

[32] 12 U.S.C. 2906(b)(2).

denial;[33] total loan costs or total points and fees; origination charges; discount points; the amount of lender credits; the interest rate applicable at closing or account opening; prepayment penalty term; the debt-to-income ratio; the combined loan-to-value ratio; loan term; introductory rate period; non-amortizing features; property value; manufactured home secured property type; manufactured home land property interest; multifamily affordable units; application channel; mortgage loan originator identifier; information related to the automated underwriting system used in evaluating an application and the result generated by the automated underwriting system; whether the loan is a reverse mortgage; whether the loan is an open-end line of credit; and whether the loan is primarily for a business or commercial purpose.

| Data points covered by the EGRRCPA partial exemptions | Data points not covered by the EGRRCPA partial exemptions |
|---|---|
| • Universal Loan Identifie<br>• Property Address<br>• Rate Spread<br>• Credit Score<br>• Reasons for Denial<br>• Total Loan Costs or Total Points and Fees<br>• Origination Charges<br>• Discount Points<br>• Lender Credits<br>• Interest Rate<br>• Prepayment Penalty Term<br>• Debt-to-Income Ratio<br>• Combined Loan-to-Value Ratio<br>• Loan Term<br>• Introductory Rate Period<br>• Non-Amortizing Features<br>• Property Value<br>• Manufactured Home Secured Property Type<br>• Manufactured Home Land Property Interest<br>• Multifamily Affordable Units<br>• Application Channel<br>• Mortgage Loan Originator Identifier<br>• Automated Underwriting System<br>• Reverse Mortgage Flag<br>• Open-End Line of Credit Flag<br>• Business or Commercial Purpose Flag | • Application Date<br>• Loan Type<br>• Loan Purpose<br>• Preapproval<br>• Construction Method<br>• Occupancy Type<br>• Loan Amount<br>• Action Taken<br>• Action Taken Date<br>• State<br>• County<br>• Census Tract<br>• Ethnicity<br>• Race<br>• Sex<br>• Age (applicant/borrower)<br>• Income<br>• Type of Purchaser<br>• Home Ownership and Equity Protection Act (HOEPA) Status<br>• Lien Status<br>• Number of Units<br>• Legal Entity Identifier |

4. Disclosure and Reporting

HMDA and Regulation C require that data collected and reported by financial institutions in a given calendar year be made available to the public the following year in both aggregate and loan-level formats. The HMDA Rule addressed the public disclosure of HMDA data in two primary ways. First, it shifted public disclosure of HMDA data entirely to the agencies. Beginning with HMDA data collected in 2017, financial institutions were no longer required to provide their modified loan/application registers and disclosure statements directly to the public. Instead, they were required only to provide a notice advising members of the public seeking their data that the data may be obtained on the Bureau's website. Second, the HMDA Rule interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted these changes to require that public HMDA data be modified when the release of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such release to the public in light of HMDA's statutory purposes. In December 2018, the Bureau issued final policy guidance on its website describing the loan-level HMDA data it intends to make available to the public, including modifications to be applied to the data.[34]

The HMDA Rule retained the pre-existing requirement that financial institutions submit their HMDA data to the appropriate Federal agency by March 1 following the calendar year for which the data are collected. The HMDA Rule additionally requires that financial institutions that reported for the preceding calendar year at least 60,000 covered loans and applications combined, excluding purchased covered loans, also submit their data for the following calendar year to the appropriate Federal agency on a quarterly basis.

*B. Significant Rule Determination*

The Bureau has determined that the HMDA Rule, comprised of the 2015 HMDA Final Rule and the related later amendments, considered both individually and together, is not a significant rule for purposes of Dodd-Frank Act section 1022(d).[35] The Bureau made this determination based on a number of factors, including the estimated annual costs to industry of complying with the HMDA Rule, and limited or undetectable effects of the rule on mortgage features, mortgage

[33] Financial institutions regulated by the Office of the Comptroller of the Currency (OCC) are required to report reasons for denial on their HMDA loan/application registers pursuant to 12 CFR 27.3(a)(1)(i) and 128.6. Similarly, pursuant to regulations transferred from the Office of Thrift Supervision, certain financial institutions supervised by the Federal Deposit Insurance Corporation (FDIC) are required to report reasons for denial on their HMDA loan/application registers. 12 CFR 390.147.

[34] 84 FR 649 (Jan. 31, 2019). This final policy guidance will not be covered by the assessment of the HMDA Rule.

[35] For more information on how the Bureau determines a rule's significance for purposes of section 1022(d) of the Dodd-Frank Act, *see* U.S. Gov't Accountability Office, Dodd-Frank Regulations: Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks, December 2018, *https://www.gao.gov/assets/700/696200.pdf.*

industry operations, and the price and availability of mortgages.

The Bureau's 2015 HMDA Final Rule presented a basic framework of analyzing compliance costs for HMDA reporting, including ongoing costs and one-time costs for financial institutions.[36] A 1022(b)(2) cost-benefit analysis in the 2015 HMDA Final Rule estimated that the bulk of the costs associated with the rule derived from one-time implementation and not ongoing annual costs.[37] The Bureau estimated the 2015 HMDA Final Rule would result in ongoing costs of the rule of $53.6 million to $68.3 million per year for all reporters, as compared to one-time and start-up costs of between $177 million and $326.6 million per year.[38]

The Bureau considered qualitative factors as well. As a data collection rule, the HMDA reporting requirements have had little direct impact on the features of consumer financial products and services. Financial institutions' HMDA operations are mostly for compliance purposes, and neither the 2015 HMDA Final Rule nor any of the amendments materially affected institutions' underlying operations for originating mortgages.

The Bureau also considered the effects of the HMDA Rule on the market in making its determination. In the 2015 HMDA Final Rule, the Bureau explored whether covered entities passed through increased compliance costs to consumers and found the impact to be negligible.[39] The Bureau also considered in the 2015 HMDA Final Rule whether the new reporting requirements would cause smaller institutions to exit the mortgage market, either for closed-end mortgage loans or for open-end lines of credit. The Bureau is not aware of evidence that the 2015 HMDA Final Rule, or any related amendments, caused some lenders to leave the market or inhibited any lenders from entering the market, resulting in a decline in consumers' access to credit.

Taking these factors into consideration, the Bureau concluded that the HMDA Rule is not significant for purposes of section 1022(d) of the Dodd-Frank Act. Therefore, the Bureau is not required to conduct an assessment of the HMDA Rule under section 1022(d). The Bureau recognizes the importance of the HMDA Rule, however, and believes that the public would benefit from the Bureau conducting a voluntary assessment. The Bureau also previously noted that it would be doing an assessment of this rulemaking.[40] For all of these reasons, the Bureau has decided to conduct a voluntary assessment.

## IV. The Assessment Plan

The assessment will address, among other relevant factors, the HMDA Rule's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals of the HMDA Rule as stated by the Bureau. Each is discussed below.

### *A. Purposes and Objectives of Title X*

Section 1021 of the Dodd-Frank Act states that the Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.[41] Section 1021 also sets forth the Bureau's objectives, which are to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services:

(a) Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(b) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(c) Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(d) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and

(e) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.[42]

### *B. Specific Goals of the HMDA Rule*

Congress enacted HMDA in 1975 to create transparency in the mortgage market.[43] As originally adopted, HMDA identifies its purposes as providing the public and public officials with information to help determine whether financial institutions are serving the housing needs of the communities in which they are located, and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.[44] Congress later expanded HMDA to, among other things, require financial institutions to report racial characteristics, gender, and income information on applicants and borrowers.[45] In light of these amendments, the Board subsequently recognized a third HMDA purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, which now appears with HMDA's other purposes in Regulation C.[46]

In 2015, the Bureau issued amendments to Regulation C to implement the Dodd-Frank Act amendments to HMDA, better achieve HMDA's purposes in light of current market conditions, and reduce unnecessary burden on financial institutions. At that time, the Bureau noted that HMDA and Regulation C have been updated and expanded over time in order to maintain the data's usefulness in response to the changing needs of homeowners and evolution in the mortgage market.[47] The Bureau also stated that the HMDA data must be updated in order to address the informational shortcomings exposed by the financial crisis and to meet the needs of homeowners, potential

[36] The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), as amended by section 1100G(a) of the Dodd-Frank Act, requires the Bureau to convene a Small Business Review Panel before proposing a rule that may have significant economic impact on a substantial number of small entities. *See* Public Law 104–121, tit. II, 110 stat. 847, 857 (1996) as amended by Public Law 110–28, and Public Law 111–203, section 1100G (2010).

[37] 80 FR 66128, 66265–66 (Oct. 28, 2015).

[38] The Bureau's 1022(b) analysis in the 2015 HMDA Final Rule annualized one-time and start-up costs using a 7 percent discount rate and 5-year amortization window. Generally, for the subsequent 2017, 2018, 2019, and 2020 HMDA rules, the Bureau estimated that changes in thresholds and other requirements would represent savings in ongoing costs for affected entities. Although affected entities would incur additional one-time costs from the adjustment to new HMDA requirements, the Bureau estimated these would be negligible.

[39] Generally, for the subsequent 2017, 2018, 2019, and 2020 HMDA rules, the Bureau estimated that changes in thresholds and other requirements would represent savings in ongoing costs for affected entities. Although affected entities would incur additional one-time costs from the adjustment to new HMDA requirements, the Bureau estimated these would be negligible.

[40] 80 FR 66269 (Oct. 28, 2015).

[41] 12 U.S.C. 2603(a), 15 U.S.C. 1604(b).

[42] 12 U.S.C. 5511(b)(1)–(5).

[43] 80 FR 66127, 66130 (Oct. 28, 2015).

[44] HMDA section 302(b), 12 U.S.C. 2801(b); *see also* 12 CFR 1003.1(b)(1)(i)–(ii).

[45] Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73, section 1211 (''Fair lending oversight and enforcement'' section), 103 stat. 183, 524–26 (1989).

[46] 54 FR 51356, 51357 (Dec. 15, 1989), *codified at* 12 CFR 1003.1(b)(1).

[47] 80 FR 66127, 66129 (Oct. 28, 2015).

homeowners, and neighborhoods throughout the nation.[48] The 2015 HMDA Final Rule thus sought to address gaps in the HMDA data regarding certain segments of the market. The Bureau issued subsequent amendments to clarify further Regulation C's requirements and reduce burden.

As previously stated, for purposes of this RFI and assessment (except as otherwise noted), the Bureau refers to the 2015 HMDA Final Rule and the subsequent HMDA rules issued in 2017, 2018, 2019, and 2020, collectively as ''the HMDA Rule.'' [49]

*C. Scope and Approach*

To assess the effectiveness of the HMDA Rule in meeting these purposes, objectives and goals, the Bureau is undertaking a voluntary assessment that is consistent with the requirements of a statutory assessment under Dodd-Frank Act section 1022(d). Specifically, the Bureau intends to focus its evaluation of the HMDA Rule on the following primary topic areas: (1) Institutional coverage and transactional coverage; (2) data points; (3) benefits of the new data and disclosure requirements; [50] and (4) operational and compliance costs.

To assess the HMDA Rule, the Bureau plans to analyze a variety of metrics and data to the extent feasible. Feasibility will depend on the data and information available to the Bureau as well as any information and data submitted in response to this request for comment. The Bureau plans to investigate the operational and compliance costs of the rule. The Bureau will work from the methods and findings it published with the cost-benefit analysis in the 2015 HMDA Final Rule. The Bureau will also use comments responding to this request for information to determine whether those methods and findings remain valid. The Bureau is interested in any information about activities and outcomes including the ones listed below and is interested in understanding how these activities and outcomes relate to each other:

(1) Industry outcomes that the HMDA Rule may have affected, including the number and types of reporters, the number of loans, and the dollar amounts for reported open-end lines of credit and closed-end mortgage loans;

(2) The activities undertaken by financial institutions to comply with the HMDA Rule's criteria, as well as the adoption of loan-volume coverage thresholds, adoption of new and revised data points, and revisions to transactional coverage, including mandatory reporting of open-end lines of credit and the adoption of a dwelling-secured standard;

(3) Overall benefits and other outcomes that the HMDA Rule sought to affect, including whether the HMDA Rule has brought greater transparency to the mortgage market, has helped determine whether financial institutions are serving the housing needs of their communities, has assisted public officials in distributing public-sector investment so as to attract private investment to areas where it is needed, assisted in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, and addressed gaps in the HMDA data regarding certain segments of the market;

(4) An evaluation of the benefits and costs of the new and revised data points, and the benefits and costs of new data reported under the revised coverage thresholds; and

(5) The HMDA Rule's effect on the operational and compliance costs for financial institutions, including activities covered institutions conducted to collect and report new and revised data points.

The Bureau plans to conduct or has begun conducting several research analyses in connection with this assessment. Other research analyses may also be considered as appropriate. In conducting the assessment, the Bureau will evaluate the association between the requirements of the HMDA Rule and the HMDA Rule's stated purposes, goals, and objectives.

The Bureau will consider analysis related to loan originations, applications, prices, and the number of reporters using available data. The currently available data includes HMDA data, third-party servicing data, Fannie/Freddie public loan level data, and the National Mortgage Database (NMDB).[51] In addition, the Bureau is planning on utilizing responses to this request for information as appropriate.

**V. Request for Comment**

To inform the assessment, the Bureau hereby invites members of the public to submit information and other comments relevant to the issues identified above and below, information relevant to enumerating costs and benefits of the HMDA Rule to inform the assessment, and any other information relevant to assessing the effectiveness of the HMDA Rule in meeting the purposes and objectives of title X of the Dodd-Frank Act (section 1021) and the specific goals of the Bureau (enumerated above). More detailed comments/information that are supported by data/analysis will generally be more useful to inform the assessment. As mentioned previously, the Bureau recognizes that it faces challenges in its assessment, as it may be difficult to quantify benefits, and there may be limitations in the data available to the Bureau to evaluate the HMDA Rule's contributions to public investment and anti-discrimination monitoring and enforcement. The Bureau is interested in information and data on how HMDA data are used by various stakeholders to serve the HMDA's goals and purposes, including extending access to credit, fair lending enforcement, and distributing public-sector investment so as to attract private sector investment. The Bureau also invites comments on additional data or analyses that would be helpful for the Bureau to evaluate the effects of different institutional coverage and loan-volume thresholds. The Bureau welcomes stakeholders to submit data and information about the effects of different thresholds on lenders and communities. In particular, the Bureau invites the public, including consumers and their advocates, community organizations, HMDA reporters and other industry representatives, industry analysts, and other interested entities to submit comments on any or all of the following:

(1) Comments on the feasibility and effectiveness of the assessment plan, the objectives of the HMDA Rule that the Bureau intends to emphasize in the assessment, and the outcomes for assessing the effectiveness of the HMDA Rule as described in part IV above;

[48] *Id.* at 66130.

[49] Certain provisions in the 2020 HMDA Final Rule that would not go into effect until January 2022, such as the increase in the open-end coverage threshold, will be not considered under this assessment.

[50] The Bureau considers an evaluation of the balancing test used to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy to be outside the scope of its assessment of the HMDA Rule.

[51] The NMDB is an ongoing project, jointly undertaken by the Federal Housing Finance Agency (FHFA) and the Bureau, with the goal of providing the public and regulatory agencies with data that does not include any personally identifiable information but that otherwise may service as a comprehensive resource about the U.S. mortgage market. The core data in the NMDB are drawn from a random, personally anonymous, 1-in-20 sample of all credit bureau records associated with a closed-end, first-lien mortgage, updated quarterly. Mortgages, after being unlinked from any personally identifiable information or characteristics that could be traced back to any borrower, are followed in the NMDB database until they terminate through prepayment (including refinancing), foreclosure, or maturity. The information available to the FHFA, CFPB, or any other authorized user of the NMDB data never includes personally identifiable information.

(2) Data and other factual information that the Bureau may find useful in executing its assessment plan and answering related research questions, particularly research questions that may be difficult to address with the data currently available to the Bureau, as described in part IV above;

(3) The specific data points reported under the 2015 HMDA Rule that help meet the objectives of the HMDA Rule, as described in part IV above, including the rationale, and provide any available detailed supporting information, evidence and data;

(4) Recommendations to improve the assessment plan, as well as data, other factual information, and sources of data that would be useful and available to the Bureau to execute any recommended improvements to the assessment plan;

(5) Data and other factual information about the benefits and costs of the HMDA Rule for communities, public officials, reporters, mortgage industry participants or other stakeholders; and about the effects of the rule on transparency in the mortgage market, and the utility, quality, and timeliness of HMDA data in meeting the Rule's stated goals and objectives;

(6) Data and other factual information about the accuracy of estimates of annual ongoing compliance and operational costs for HMDA reporters, or the analytical approach used to estimate these costs, as delineated in the Small Business Review Panel Report under the Small Business Regulatory Enforcement Fairness Act (SBREFA) that the Bureau convened and chaired in 2014; [52]

a. Comments related to the nature and magnitude of any operational challenges in complying with the HMDA Rule. Are they significantly different from those delineated in the published Report of the Small Business Review Panel mentioned above? If so, how and how much?;

b. Comments delineating and describing the ongoing costs incurred in collecting and reporting information for the HMDA Rule. Are they significantly different from those delineated in the published Report of the Small Business Review Panel mentioned above? If so, how and how much?;

(7) Data and other factual information about the HMDA Rule's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act (section 1021), which are listed in part IV above;

a. Please describe the value that data on such transactions provides in serving HMDA's purposes;

b. Comments relating to the usability of the public HMDA data, potential challenges of the current format of the public HMDA data, and recommendations for additional reporting by the Bureau that would be helpful in informing the use of the public HMDA data by communities, public officials, or other stakeholders; and

(8) Recommendations for modifying, expanding, or eliminating any aspects of the HMDA Rule, including but not limited to the institutional coverage and loan-volume thresholds, transactional coverage, and data points.

**Rohit Chopra,**

*Director, Bureau of Consumer Financial Protection.*

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[52] *See* Bureau of Consumer Fin. Prot., ''Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for the Home Mortgage Disclosure Act (HMDA) Rulemaking'' at 22, 37 (April 24, 2014), *http://files.consumerfinance.gov/f/201407_cfpb_report_hmda_sbrefa.pdf.*

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1010; Project Identifier MCAI–2020–00807–G]**

**RIN 2120–AA64**

## Airworthiness Directives; Stemme AG Gliders

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Stemme AG TSA–M Model S6 and S6–RT gliders. This proposed AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a new version of the propeller gearbox tooth belt with a reduced life limit. This proposed AD would require establishing a life limit of 5 years for certain propeller gearbox tooth belts. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by January 6, 2022.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact STEMME AG, Flugplatzstrasse F2, Nr. 6–7, D–15344 Strausberg, Germany; phone: +49 (0) 3341 3612–0; fax: +49 (0) 3341 3612–30; email: *airworthiness@stemme.de;* website: *https://www.stemme.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1010; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1010; Project Identifier MCAI–2020–00807–G'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the

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

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0140, dated June 23, 2020 (referred to after this as ''the MCAI''), to address an unsafe condition on Stemme AG (Stemme) TSA–M Model S6 and S6–RT powered sailplanes (gliders) and ASP S15–1 airplanes. The MCAI states:

> The airworthiness limitations for Stemme TSA–M powered sailplanes and Stemme ASP aeroplanes, which are approved by EASA, are currently defined and published in Chapter 4 of the applicable AMM [aircraft maintenance manual]. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> During a regular incoming part inspection at Stemme, the supplier delivered a new version of the tooth belts used in the propeller gearbox. The new part (with marking ''Carbon'') deviates from the previously used part (with marking ''Extreme'') by its layer build up. The new tooth belt has been found airworthy, although with a reduced life limit.
>
> Before Stemme identified the issue, new tooth belts were delivered, identified as Part Number (P/N) 830.185, the same as the previous part. These parts have to be identified by inspection, changed to P/N 832.502, and the reduced life limit implemented.
>
> Consequently, Stemme issued the applicable ALS [airworthiness limitations section] introducing the new life limit for the new part. Stemme also issued the SB [service bulletin] providing additional instructions on relevant inspections and corrective actions.
>
> For the reasons described above, this [EASA] AD requires a one-time inspection of the propeller gearbox tooth belts, and, depending on findings, re-identification. This [EASA] AD also requires implementation of the reduced life limit by accomplishment of the actions specified in the applicable ALS.

After issuance of the MCAI, EASA approved extending the life limit of the new ''Synchroforce Carbon'' belt to 5 years, the same as the original ''Extreme'' belt, as documented by Stemme in Revision 15 to the AMM Chapter 04 ALS.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1010.

**Related Service Information**

The FAA reviewed Stemme Service Bulletin (SB) Doc. No. P062–980049, Revision 00, dated May 27, 2020. This SB specifies identifying the front propeller gearbox tooth belt, revising the AMM and illustrated parts catalogue, and introducing a life limit for the propeller gearbox tooth belt marked ''Synchroforce Carbon.''

**FAA's Determination**

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop on other products of the same type design.

**Proposed AD Requirements**

This proposed AD would establish a life limit of 5 years for the affected propeller gearbox tooth belt.

**Differences Between This Proposed AD and the MCAI or Service Information**

The MCAI applies to Stemme AG Model ASP S15–1 airplanes, and this proposed AD would not because that model does not have an FAA type certificate.

The MCAI requires an inspection to determine whether the propeller gearbox tooth belts are ''Synchroforce Carbon'' or ''Extreme.'' This proposed AD would not require this inspection because instead, it would apply only to gliders with a ''Synchroforce Carbon'' propeller gearbox tooth belt installed.

The MCAI requires revising the existing aircraft maintenance program (AMP) to introduce the reduced life limit for the affected propeller gearbox tooth belt, as well as other life limits, as specified in the Temporary Revision to the aircraft maintenance manual airworthiness limitations section (ALS). After the AMP is revised, the MCAI does not require recording AD compliance on a continued basis each time a task in the revised AMP is performed. Because the AMP is not required for U.S. operators and the ALS specified in the MCAI includes additional tasks that do not address the unsafe condition, this proposed AD would establish a life limit for the affected propeller gearbox tooth belt by requiring that it be removed from service after 5 years. Operators would be required to record AD compliance each time an affected propeller gearbox tooth belt reaches its life limit and is replaced.

Stemme SB Doc. No. P062–980049, Revision 00, dated May 27, 2020, requires reporting information to Stemme AG, and this proposed AD would not.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 3 gliders of U.S. registry. The FAA estimates that it would take 4 work hours to replace the propeller gearbox tooth belt and require a part costing $300. The average labor rate is $85 per work hour. Based on these figures, the FAA estimates the cost to replace the propeller gearbox tooth belt on U.S. operators to be $1,920 or $640 per glider, every 5 years.

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

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

**Regulatory Findings**

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

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

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

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

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

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

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Stemme AG:** Docket No. FAA–2021–1010; Project Identifier MCAI–2020–00807–G.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by January 6, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Stemme AG TSA–M Model S6 and S6–RT gliders, all serial numbers, certificated in any category, with a propeller gearbox tooth belt marked ''Synchroforce Carbon'' installed.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 6100, Propeller System.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a new version of the propeller gearbox tooth belt with a reduced life limit. The FAA is issuing this AD to prevent a propeller gearbox tooth belt remaining in service beyond its fatigue life. The unsafe condition, if not addressed, could result in failure of the propeller gearbox tooth belt and reduced control of the glider.

**(f) Compliance**

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

**(g) Required Actions**

Before the propeller gearbox tooth belt accumulates 5 years since installation on a glider or within 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 5 years, remove the propeller gearbox tooth belt from service and install a propeller gearbox tooth belt with zero hours time-in-service.

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

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

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

**(i) Related Information**

(1) For more information about this AD, contact Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0140, dated June 23, 2020, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2021–1010.

Issued on November 15, 2021.

**Lance T. Gant,**

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

[FR Doc. 2021–25341 Filed 11–19–21; 8:45 am]

**BILLING CODE 4910–13–P**

## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Parts 230, 232, 239, 240 and 249

**[Release Nos. 33–11005; 34–93519; File No. S7–16–21]**

**RIN 3235–AM15**

## Updating EDGAR Filing Requirements

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing rule and form amendments to update filing requirements under our Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system. The proposed amendments would mandate the electronic filing or submission of most of the documents that are currently permitted electronic submissions under Regulation S–T, including all filings on Form 6–K and filings made by multilateral development banks; mandate the electronic submission in portable document format (''PDF format'') of the ''glossy'' annual report to security holders; mandate the electronic filing of the certification made pursuant to the Exchange Act and its rules that a security has been approved by an exchange for listing and registration; mandate the use of Inline eXtensible Business Reporting Language (''Inline XBRL'') for the filing of the financial statements and accompanying notes to the financial statements required by Form 11–K; and allow for the electronic submission in PDF format of certain foreign language documents.

**DATES:** Comments should be received on or before December 22, 2021.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*https://www.sec.gov/regulatory-actions/how-to-submit-comments*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–16–21 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Vanessa A. Countryman, Secretary,

Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–16–21. 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 internet 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, 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. 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:** Daniel Morris, at (202) 551–3430, in the Office of Rulemaking, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** We are proposing amendments to:

| Commission reference | CFR citation (17 CFR) |
|---|---|
| Regulation S–T | §§ 232.11 through 232.903. |
| Rule 101 | § 232.101. |
| Rule 306 | § 232.306. |
| Rule 311 | § 232.311. |
| Securities Act of 1933 [1] (''Securities Act''): | |
| Rule 158 | § 230.158. |
| Form SE | § 239.64. |
| Securities Exchange Act of 1934 [2] (''Exchange Act''): | |
| Rule 12d1–3 | § 240.12d1–3. |
| Rule 14a–3(c) | § 240.14a–3(c). |
| Rule 14c–3(b) | § 240.14c–3(b). |
| Form 6–K | § 249.306. |
| Form 10–K | § 249.310. |
| Form 11–K | § 249.311. |
| Form 20–F | § 249.220f. |
| Form 40–F | § 249.240f. |

In addition, we are proposing to adopt technical amendments to 17 CFR 239.40 (''Form F–10''), 17 CFR 239.42 (''Form F–X'') and 17 CFR 239.800 (''Form CB'') to remove certain outdated references on these forms. The rule text of these technical changes has been included with the proposed amendments.

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## I. Introduction

Registrants and individuals submit to the Commission most documents required to be filed or otherwise submitted under the Federal securities laws in electronic format using the Commission's EDGAR system. In 1993, when the Commission began to mandate the electronic filing of documents on EDGAR, it adopted Regulation S–T and other rule and form amendments to implement the operational phase of EDGAR.[3] EDGAR filings are available to the public on our website.[4] During the 2020 calendar year, electronic filers submitted approximately 832,000 filings on EDGAR.

When the Commission adopted Regulation S–T, it did not mandate the electronic filing of all documents that are required to be filed under the

[1] 15 U.S.C. 77a *et seq.*

[2] 15 U.S.C. 78a *et seq.*

[3] *See Rulemaking for EDGAR System,* Release No. 33–6977 (Feb. 23, 1993) [58 FR 14628]. Starting in April 1993, we required many of the documents required to be filed under the federal securities laws to be submitted electronically via the EDGAR system. Domestic registrants were scheduled to become subject to mandated electronic filing in a series of discrete phase-in groups. Following the completion of a congressionally-mandated test period, we certified that EDGAR satisfied all statutory requirements and announced a schedule for completing the transition to mandated electronic filing for all domestic registrants and persons filing documents with respect to those registrants.

[4] EDGAR documents are also available through some third-party information providers that obtain filings from EDGAR and disseminate them through their own websites.

Federal securities laws.[5] Currently, 17 CFR 232.10(a) (''Rule 101(a)'') mandates the electronic filing of over 400 different forms, schedules, reports, and applications. However, 17 CFR 232.101(b) (''Rule 101(b)'') identifies a small number of documents that filers may choose (but are not required) to submit in electronic format via EDGAR and 17 CFR 232.101(c) (''Rule 101(c)'') identifies a numbers of documents that are proscribed from submission in electronic format via EDGAR.[6] The mandated electronic filings with the Commission have enabled investors and other EDGAR users to access more quickly the information contained in registration statements, periodic reports, and other filings made with the Commission.

Since our implementation of EDGAR, we have increasingly sought to make the system more comprehensive by including more filings in the mandated electronic filing category. For example, in 2002, we adopted amendments to require foreign private issuers and foreign governments to submit electronically via EDGAR many of the documents that they are required to file.[7] In 2003,[8] we adopted rule and form amendments to mandate the electronic filing of Forms 3,[9] 4,[10] and 5.[11]

In furtherance of this objective, we are proposing amendments to update some of our EDGAR filing requirements. Specifically, we are proposing rule and form amendments that would: (1) Mandate the electronic filing or submission of most of the documents that are currently permitted electronic submissions under Rule 101(b) of Regulation S–T; [12] (2) mandate the electronic submission in PDF format of the ''glossy'' annual report to security holders; (3) mandate the electronic filing of the certification made pursuant to 15 U.S.C. 78*l*(d) (''Section 12(d) of the Exchange Act'') and 17 CFR 240.12d1–2 (''Exchange Act Rule 12d1–3'') that a security has been approved by an exchange for listing and registration; (4) mandate the use of Inline XBRL for the filing of the financial statements and accompanying notes to the financial statements required by Form 11–K; and (5) allow for the electronic submission in PDF format of certain foreign language documents.

We welcome feedback and encourage interested parties to submit comments on any or all aspects of the proposed rule amendments. When commenting, it would be most helpful if you include the reasoning behind your position or recommendation.

## II. Discussion of Proposed Amendments

### *A. Mandating the Electronic Filing or Submission of Permissible Electronic Submissions*

Currently under Rule 101(b) of Regulation S–T, filers have the option to submit the following documents either electronically or in paper format:

- Annual reports to security holders (colloquially referred to as the ''glossy'' annual reports) furnished for the information of the Commission pursuant to Exchange Act Rules 14a–3(c) or 14c–3(b), or under the requirements of Form 10–K [13] for registrants reporting pursuant to 15 U.S.C. 78o(d) (''Section 15(d) of the Exchange Act''), or by foreign private issuers on Form 6–K pursuant to Exchange Act Rules 17 CFR 240.13a–16 (''Rule 13a–16'') or 17 CFR 240.15d–16 (''Rule 15d–16'');
- Notices of exempt solicitation furnished for the information of the Commission pursuant to 17 CFR 240.14a–6(g) (''Exchange Act Rule 14a–6(g)''), and notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to 17 CFR 240.14a–6(n) (''Exchange Act Rule 14a–6(n)'');
- Annual reports for employee benefit plans on 17 CFR 249.311 (''Form 11–K''); [14]
- 17 CFR 239.144 (''Form 144'') where the issuer of the securities is subject to the reporting requirements under Section 13 or Section 15(d) of the Exchange Act; [15]
- Periodic reports and reports with respect to distributions of primary obligations filed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the European Bank for Reconstruction and Development (collectively, the ''Development Banks''); [16]
- Reports or other documents submitted by a foreign private issuer under cover of Form 6–K that the foreign private issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer's ''home country''), or under the rules of the home country exchange on which the foreign private issuer's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, has already been the subject of a Form 6–K or other Commission filing or submission on EDGAR; and
- Documents filed with the Commission pursuant to 15 U.S.C. 80a–32 (''Section 33 of the Investment Company Act'').[17]

Advances in information technology, the expanded use of the internet, and upgrades to EDGAR have made it easier for filers to prepare documents electronically and file or submit them

[5] The Commission recognized that, at the time of adoption of Regulation S–T, certain documents, due to the graphical content or the format of data contained in the document and limitations of information technology, could be difficult to convert into an electronic format.

[6] 17 CFR 232.101(c).

[7] *See Mandated EDGAR Filing for Foreign Issuers,* Release No. 33–8099 (May 14, 2002) [67 FR 36678].

[8] *See Mandated Electronic Filing and website Posting for Forms 3, 4 and 5,* Release No. 33–8230 (May 7, 2003) [68 FR 25788].

[9] 17 CFR 249.103.

[10] 17 CFR 249.104.

[11] 17 CFR 249.105.

[12] 17 CFR 232.101(b).

[13] In 2016, the Division of Corporation Finance stated that it would not object if a registrant posts an electronic version of its ''glossy'' annual report to security holders to its corporate website by the applicable date specified in Rule 14a–3(c), Rule 14c–3(b), or in Form 10–K, in lieu of mailing paper copies or submitting it on EDGAR if the report remains accessible for at least one year after posting. The staff may, in its discretion, obtain paper copies of these reports from registrants upon request as necessary. *See Proxy Rules and Schedule 14A (Regarding Submission of Annual Reports to SEC Under Rules 14a–c(3) and 14c–3(b)),* U.S. Sec. & Exch. Comm'n (Nov. 2, 2016), available under ''Compliance and Disclosure Interpretations—Proxy Rules and Schedule 14A'' at *https://www.sec.gov/divisions/corpfin/guidance/exchange-act-rule-14a3-14c3.htm* (''Proxy Rules and Schedule 14A Guidance''). If the proposed amendments are adopted, the 2016 staff guidance would be withdrawn. *See infra* Section II.B.

[14] Registrants who satisfy their Form 11–K filing obligations by filing an amendment to Form 10–K, as provided by Exchange Act Rule 15d–21 [17 CFR 240.15d–21], may also file these amendments in paper or electronic format.

[15] The Commission proposed amendments to mandate, among other changes, the electronic filling of all Form 144 notices related to the resale of securities of issuers that are subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, and eliminate the filing requirement for Form 144 notices related to the resale of securities of issuers that are not subject to Exchange Act reporting in December 2020. *See Rule 144 Holding Period and Form 144 Filings,* Release No. 33–10991(Dec. 22, 2020) [85 FR 79936] (proposing to remove and reserve paragraphs (b)(4) and (c)(6) of Rule 101 of Regulation S–T).

[16] Pursuant to rules adopted by the Commission, the Development Banks are required to file annual and quarterly reports with the Commission in connection with the distribution of primary obligations issued by the Development Banks. In addition, the Development Banks are required to file a distribution report with the Commission on or prior to the date on which any distribution of primary obligations are issued to the public in the United States. *See* 17 CFR 285–290.

[17] *See* Rule 101(b)(9) of Regulation S–T [17 CFR 232.101(b)(9)].

on EDGAR. Moreover, documents filed or submitted on EDGAR are more quickly and readily available to the public than paper submissions. Generally, investors or other parties wishing to access and review paper filings must do so in person at the Commission's public reference room, or subscribe to a third-party information service that scans and distributes the information after a paper filing is made. For an investor or other user, it can be both time consuming and cumbersome to obtain these filings in paper.

While filers are permitted to file or submit the documents listed in Rule 101(b) in paper, many currently do so electronically. The table below shows the number of these documents subject to the proposed amendments that were filed or submitted on paper and electronically during the 2019 and 2020 calendar years.

TABLE 1

| Permissible electronic submissions pursuant to Rule 101(b) of Regulation S–T | CY2019 Paper submissions | CY2019 Electronic submissions | CY2020 Paper submissions | CY2020 Electronic submissions |
|---|---|---|---|---|
| Annual reports to security holders furnished for the information of the Commission pursuant to Exchange Act Rules 14a–3(c) or 14c–3(b), or under the requirements of Form 10–K for registrants reporting pursuant to Section 15(d) of the Exchange Act, or by foreign private issuers on Form 6–K [1] | ..... | 26 | ..... | 23 |
| Reports and other documents filed by foreign private issuers under cover of Form 6–K | 3 | 22,553 | 2 | 23,373 |
| Notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a–6(g) | 0 | 186 | 0 | 219 |
| Notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Rule 14a–6(n) | 0 | 0 | 0 | 0 |
| Annual reports for employee benefit plans on Form 11–K filed under Section 15(d) of the Exchange Act | 25 | 1,065 | 19 | 1,047 |
| Periodic reports and reports with respect to distributions of primary obligations filed by Development Banks | 72 | 38 | 82 | 53 |
| Documents filed with the Commission pursuant to Section 33 of the Investment Company Act of 1940 | 5 | 4 | 0 | 3 |

1. In Table 1, "—" denotes the minimal number of "glossy" annual reports to security holders submitted to the Commission in paper format. The staff no longer tallies the number of these reports submitted in paper format. However, we believe the number is minimal as issuers typically avail themselves of the 2016 staff guidance. See Proxy Rules and Schedule 14A Guidance, supra note 13; *see also infra* Section II.B.

We propose to amend Rule 101 of Regulation S–T to mandate the electronic filing of certain documents listed in the table above that are currently permitted electronic filings under Rule 101(b). The proposed amendments would remove the permitted electronic submissions listed in Rule 101(b)(1) through paragraph (b)(6), with the exception of current 101(b)(4) which relates to Rule 144 filings,[18] as well as paragraph (b)(9) and add these items to the list of mandated electronic submissions contained in Rule 101(a)(1) of Regulation S–T. We believe that mandating the electronic filing of these documents would benefit investors and other users by making the information contained in these filings more easily accessible to the public within a short time after filing on EDGAR. The use of EDGAR would also facilitate more efficient storage, retrieval, and analysis of these documents as compared to a paper filing, improve the Commission's ability to track and process filings, and modernize the Commission's records management process. With respect to permitted electronic submissions under Rule 101(b) that are furnished for the information of the Commission, such as paper copies of the ''glossy'' annual report to security holders, certain information under Form 6–K, and notices of exempt solicitation, the proposed amendments would eliminate a paper option that is, as a practical matter, no longer used by the vast majority of registrants.

Request for Comment

- Should we mandate electronic filing or submission of the documents that are currently permissible electronic filings or submissions under Rule 101(b)(1) through(b)(6), as well as paragraph (b)(9), as proposed? If not, why? For instance, are there any technical barriers that would make it unduly burdensome to file or submit such documents electronically? Are there any documents that are currently permissible electronic filings or submissions that we should continue to permit, but not require, to be submitted electronically? If so, why?
- Is there information disclosed under Form 6–K that necessitates the continued permitted, as opposed to required, electronic submission of that form? If so, which exhibits or parts, and why?
- Should we mandate the electronic submission of the reports filed by Development Banks, as proposed? Or should we continue to permit, but not require, these documents to be submitted electronically or in paper? Are there some documents filed by these institutions that should not be mandated electronic submissions? If so, which documents and why? Do the holders of the financial products issued by the Development Banks find the format of these disclosures useful? Are there other changes that would make them more useful?
- Instead of mandating the electronic submission of notices of exempt solicitations and exempt preliminary roll-up communications that are furnished for the information of the Commission, should we eliminate the requirement to submit these notices? Are the notices under Rule 14a–6(g) and/or Rule 14a–6(n) beneficial to investors and other EDGAR users such that the notice requirement should be

[18] As noted above, Rule 144 filings under Rule 101(b)(4) are the subject of a separate proposed rulemaking by the Commission that proposes to amend Rules 101(a) and 101(b) of Regulation S–T to mandate the electronic filing of all Form 144 filings for the sale of securities of Exchange Act reporting companies. *See supra* note 15. If we adopt the amendments proposed in this release, we may consider adopting the proposed Form 144 electronic filing requirements at the same time. In calendar years 2019 and 2020, respectively, the Commission received over 31,000 and 34,000 Form 144 filings. Of these submissions, 221 filings in 2019 and 204 filings in 2020 were made electronically.

retained regardless of its utility to the Commission? If so, please explain the benefit that the notices provide to the public.

*B. Mandating the Electronic Submission in PDF Format of the ''Glossy'' Annual Report to Security Holders*

Currently, Exchange Act Rules 14a–3(c) and 14c–3(b) require registrants subject to these rules to furnish to the Commission, for its information, seven copies of their ''glossy'' annual report to security holders.[19] Form 10–K contains a similar provision that requires registrants that are required to file a Form 10–K pursuant to Section 15(d) of the Exchange Act to furnish to the Commission four copies of their ''glossy'' annual report to security holders.[20] In addition, foreign private issuers are often required to furnish to the Commission their ''glossy'' annual report to security holders in response to the requirements of Form 6–K.

Currently, Rule 101(b)(1) of Regulation S–T permits all of these registrants to satisfy the above requirements by submitting to the Commission their ''glossy'' annual report to security holders in either paper or electronically on EDGAR. Additionally, in 2016 the Division of Corporation Finance stated that staff would not object if registrants subject to these requirements post an electronic version of the report on their website and make it accessible for at least one year after posting in lieu of submission to the Commission.[21] Given these options, we received minimal paper submissions and very few electronic submissions of annual reports during the 2019 and 2020 calendar years.[22]

We propose to no longer permit registrants to submit their ''glossy'' annual report to security holders to the Commission in paper by removing Item 101(b)(1) of Regulation S–T. Instead, we propose to require registrants to submit to the Commission their ''glossy'' annual report to security holders via an electronic submission on EDGAR in PDF format, in accordance with the EDGAR Filer Manual. We believe the requirements to furnish these reports to the Commission in paper format under Exchange Act Rule 14a–3(c), Exchange Act Rule 14c–3(b) and Form 10–K are unnecessary. We also believe that, in addition to helping inform the Commission, investors would benefit from the ability to access electronic copies of the ''glossy'' annual reports to security holders on EDGAR. In this regard, the proposed amendments, if adopted by the Commission, would supersede the staff guidance provided in 2016 stating that the Commission would not object if registrants post their ''glossy'' annual reports to security holders on their corporate websites for at least one year in lieu of furnishing paper copies to the Commission. If the proposed amendments are adopted, EDGAR would serve as a repository for PDF copies of the ''glossy'' annual reports to security holders, whether or not registrants decide to post the reports on their corporate websites. Creating an archive of electronic PDF copies of the ''glossy'' annual reports to security holders would ensure long-term access to these reports in a centralized database available to the public and would avoid the burden for investors and the staff to search individual corporate websites and other resources for this information. In addition, electronic submission in PDF format of the ''glossy'' annual report to security holders should capture the graphics, styles of presentation, and prominence of disclosures (including text size, placement, color, and offset, as applicable) contained in the reports.[23]

Therefore, we propose to amend Exchange Act Rule 14a–3(c), Exchange Act Rule 14c–3(b), and Form 10–K to eliminate the option for registrants to furnish to the Commission paper copies of their ''glossy'' annual report to security holders. Instead, we propose to mandate the electronic submission of these reports in PDF format in accordance with the EDGAR Filer Manual. We also propose to amend Securities Act Rule 158(b)(2) to replace the reference to the furnishing of copies of the ''glossy'' annual report to security holders to the Commission with a reference to furnishing the report to the Commission in PDF format in accordance with the EDGAR Filer Manual.[24] Notwithstanding these proposed amendments, our proxy rules will continue to require certain registrants subject to the proxy rules to publish their ''glossy'' annual report to security holders on a website other than the Commission's website.[25]

With respect to foreign private issuers, we similarly propose to amend Form 6–K to remove references to the paper submission to the Commission of a ''glossy'' annual report to security holders and would require foreign private issuers to satisfy their Form 6–K requirement to furnish such a report by submitting the report electronically in PDF format on EDGAR, in accordance with the EDGAR Filer Manual.

Request for Comment

- Should we amend Exchange Act Rule 14a–3(c), Exchange Act Rule 14c–3(b), and Form 10–K to mandate that registrants submit in electronic format the ''glossy'' annual report to security holders, as proposed? Would a particular format (*e.g.,* PDF, HTML, etc.) for the electronic submission of the ''glossy'' annual report to security holders be most useful to investors? In lieu of the proposed requirement to submit the ''glossy'' annual report to security holders to the Commission in electronic format, should we permit registrants to post the reports on their websites? If so, should we require registrants to retain the reports on their corporate websites for a duration longer than the one-year period specified in the 2016 staff guidance? If so, how long should the ''glossy'' annual reports to security holders be retained on the corporate websites (two years, five years, etc.)?
- Should we eliminate the option for foreign private issuers to submit their ''glossy'' annual report to security holders in paper format and instead require them to satisfy a Form 6–K requirement to furnish such a report by submitting the report via an electronic

[19] In 1967, we amended Exchange Act Rules 14a–3(c) and 14c–3(b) to require registrants to furnish to the Commission, solely for its information, seven copies of their ''glossy'' annual report to security holders. *See Proxy and Stockholder Information Rules,* Release No. 34–8029 (Jan. 24, 1967) [32 FR 1035]. Prior to these amendments, registrants were required to furnish to the Commission four copies of their ''glossy'' annual report to security holders.

[20] *See* Form 10–K, Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act. Form 10–K also currently requires registrants required to file a Form 10–K pursuant to Section 15(d) of the Exchange Act to furnish to the Commission every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant's security holders with respect to any annual or other meeting of security holders.

[21] *See* Proxy Rules and Schedule 14A Guidance, *supra* note 13.

[22] Prior to 2014, the staff would manually scan the paper ''glossy'' annual report to security holders and post the document on the Commission's website. However, in April 2014, in an effort to reduce costs and simplify administrative processes, as well as in light of the availability of the ''glossy'' annual report to security holders on company websites, the staff announced that it would discontinue this practice. *See* SEC Announcement, '' *'Glossy' annual reports to security holders submitted to the SEC in paper will no longer be viewable on the SEC's website*'' (Apr. 9, 2014), available at *https://www.sec.gov/corpfin/announcement/cfannouncement-annual-reports-security-holders-website.html.*

[23] Under the proposed amendments, the ''glossy'' annual report to security holders should not be re-formatted, re-sized, or otherwise re-designed for purposes of the PDF submission on EDGAR.

[24] See Rule 158(b)(2) of the Securities Act [17 CFR 230.158(b)(2)].

[25] *See* Exchange Act Rule 14a–16(b) [17 CFR 240.14a–16]; *see also Shareholder Choice Regarding Proxy Materials,* Exchange Act Release No. 34–56135 (July 26, 2007) [72 FR 42222].

submission in PDF format, in accordance with the EDGAR Filer Manual, as proposed?

*C. Requiring the Electronic Filing of Certifications of Approval of Exchange Listing*

For securities to be listed on an exchange, Exchange Act Rule 12d1–3 requires the national securities exchange to file a certification with the Commission that the security has been approved by the exchange for listing and registration pursuant to Section 12(d) of the Exchange Act.[26] This certification must specify (1) the approval of the exchange for listing and registration; (2) the title of the security so approved; (3) the date of filing with the exchange of the application for registration and of any amendments thereto; and (4) any conditions imposed on such certification. This certification that a security has been approved for listing and registration is not currently covered under the EDGAR filing requirements in Rule 101 of Regulation S–T.[27] However, recently EDGAR was modified to permit the voluntary electronic submission of the certifications on EDGAR.[28] During the 2020 calendar year, the Commission received 1,184 certifications from national securities exchanges. All of the certifications were submitted electronically, except one. Given the overwhelming use of this option, we propose to amend Exchange Act Rule 12d1–3 and Rule 101(a) of Regulation S–T to mandate the electronic filing of these certifications.[29]

Request for Comment

- Should we mandate the electronic filing of the certification that a security has been approved by an exchange for listing? If not, why?

*D. Mandate the Use of Inline XBRL for the Filing of Financial Statements and Accompanying Notes to the Financial Statements Required by Form 11–K*

In 2009, the Commission adopted rules requiring operating companies to submit the information from the financial statements included in their registration statements and periodic and current reports in a structured, machine-readable format using XBRL format.[30] In 2018, the Commission adopted modifications to these requirements by requiring issuers to use Inline XBRL format, which is both machine-readable and human-readable, to reduce the time and effort associated with preparing XBRL filings and improve the quality and usability of XBRL data for investors.[31] Since then, the Commission has phased-in XBRL requirements and undertaken to expand the number of Forms and disclosures that require data-tagging in Inline XBRL.[32]

Currently, the annual reports of employee stock purchase plans, savings plans, and similar plans filed on Form 11–K are not subject to the structured data reporting requirements for operating companies or registered investment companies. Accordingly, the financial statements required by Form 11–K are not machine-readable. These financial statements include:

- An audited statement of financial condition as of the end of the latest two fiscal years of the plan (or such lesser period as the plan has been in existence); and
- An audited statement of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) and changes in plan equity for each of the latest three fiscal years of the plan (or such lesser period as the plan has been in existence.[33]

Under Form 11–K, registrants also have the option to file with the Commission plan financial statements and schedules prepared in accordance with the financial reporting requirements of 29 U.S.C, 18 *et seq* (the ''Employee Retirement Income Security Act of 1974'' or ''ERISA'').[34] When filers elect this option, plan financial statements are embedded within the filing or filed as exhibits in a non-structured format.[35]

We are proposing to require registrants to present the financial information and the accompanying financial notes required by Form 11–K in Inline XBRL format.[36] Under the proposed amendments the data-tagging requirement for annual reports on Form 11–K would mirror the Inline XBRL requirements for annual reports on Forms 10–K, 20–F, and 40–F. As such, every data point in the financial statements required by Form 11–K would be tagged in Inline XBRL. Further, where there are narrative disclosures (*e.g.,* notes to the financial statements), registrants would be required, like filers of Forms 10–K, 20–F, and 40–F, to apply block tags to the narrative disclosures and detailed tags to any numeric amounts presented in the narrative text.

Structuring this data will enable automated analytical tools to extract tagged information. As a result, plan participants, analysts, and the Commission will be better able to access, organize, and evaluate the information presented by filers. Under the proposed amendments, the use of the Inline XBRL format would be specified in the definition of ''Related Official Filing'' in Rule 11 of Regulation S–T, Rule 405 of Regulation S–T, Form 11–K, and in the EDGAR Filer Manual.

Request for Comment

- Should all filers be required to structure the data presented in the financial statements and accompanying

[26] During the three-year period from January 1, 2015 through December 31, 2017, we received approximately 1,965 paper certifications that a security has been approved for listing and registration. In December 2017, we issued EDGAR Release 17.4 that, among other things, introduced a new submission form type for the certification by an exchange approving securities for listing and registration. *See Adoption of Updated EDGAR Filer Manual,* Release No. 33–10444 (Dec. 8, 2017) [83 FR 2369].

[27] Pursuant to Rule 100 of Regulation S–T, an exchange is subject to mandated electronic filing. [17 CFR 232.10]. However, Exchange Act Rule 12d1–3(c) specifies that the certification may be made by telegram but in such case must be confirmed in writing, and all certifications in writing and all amendments thereto must be filed with the Commission in duplicate. If an exchange elects to file the certification on EDGAR, it must submit it on EDGAR in PDF. *See* Volume II of the EDGAR Filer Manual, Version 44 (Dec. 2017).

[28] *See supra* note 26.

[29] The proposed amendment to Rule 101(a) of Regulation S–T would require the filing of the certification as a PDF document as is currently permitted.

[30] Interactive Data to Improve Financial Reporting, Securities Act Release No. 9002 (Jan. 30, 2009) [74 FR 6776 (Feb. 10, 2009)] (''2009 Financial Statement Information Adopting Release'') (requiring submission of an Interactive Data File to the Commission in exhibits to such reports); *see* also Securities Act Release No. 9002A (Apr. 1, 2009) [74 FR 15666 (Apr. 7, 2009)].

[31] Inline XBRL Filing of Tagged Data, Securities Act Release No. 10514 (June 28, 2018) [83 FR 40846, 40847 (Aug. 16, 2018)] (''Inline XBRL Adopting Release''). Inline XBRL allows filers to embed XBRL data directly into an HTML document, eliminating the need to tag a copy of the information in a separate XBRL exhibit. Inline XBRL is both human-readable and machine-readable for purposes of validation, aggregation, and analysis. Id. at 40851.

[32] *See* Filing Fee Disclosure and Payment Methods Modernization, Release No. 33–10720 (Oct. 24, 2019) [84 FR 71580 (Dec. 27, 2019)].

[33] *See* Required Information, Form 11–K. These financial statements must be prepared in accordance with the applicable provisions of Article 6A of Regulation S–X (17 CFR 210.6A).

[34] 29 U.S.C. 18 *et seq.* Plan financial statements required under ERISA are prepared on Form 5500. *See* Form 5500, Annual Return/Report of Employee Benefit Plan, available at *https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/2020-form-5500.pdf.*

[35] Under paragraph 4 of Required Information of Form 11–K, plans may include all or a portion of Form 5500 into the Form 11–K filing with the Commission.

[36] The proposed amendments will also apply to financial statements required by Form 11–K that are filed in accordance with Rule 15d–21.

notes to the financial statements in the Form 11–K, as proposed? Should certain filers be exempted from the proposed data-tagging requirement? If so, which ones?

• Do the proposed amendments require tagging of the appropriate information? Are there additional items in the Form 11–K that should be tagged? If so, which ones? Are there items to be tagged under the proposed amendments that should not be tagged? If so, which ones?

• Is Inline XBRL the most appropriate structuring format for information contained in Form 11–K? Is there another structuring format such as XML that would work better in these circumstances? Should we refrain from requiring a specific technology and instead provide parameters to guide selection of an appropriate structured data language?

• In addition to Form 11–K, should we require filers to provide machine-readable data for any other filings or submissions that we propose to make mandatory electronic submissions under the proposed amendments? If so, for which filings or submissions? What types of data should be structured and which structured data format(s) would be the most useful to investors? Should we limit data-tagging requirements to those filings and submissions that contain quantitative disclosures or should we also require tagging of narrative disclosures? Should certain documents be subject to different structured data requirements than others? If so, which ones and how should the requirements differ? What would be the additional cost to registrants to provide the documents currently filed or submitted under Rule 101(b) in machine-readable format?

*E. Electronic Submission in PDF Format of Certain Foreign Language Documents*

Generally, all filings and submissions to the Commission must be in English.[37] Rule 306(a) of Regulation S–T prohibits the electronic filing or submission of a document that is in a foreign language.[38] If an electronic filing or submission requires the inclusion of a foreign language document, the document must either be translated into, or (if it is an exhibit or attachment to a filing or submission) summarized in English and submitted in electronic format.[39] Currently, Rules 306(b) and (c) of Regulation S–T govern the submission of a foreign language document by an electronic filer.[40] Rule 306(b) permits the paper submission of an unabridged foreign language document if an English translation or summary of that document has already been provided in an electronic filing or submission. Rule 306(c) requires the paper submission of a foreign language version of a foreign government or its political subdivision's latest annual budget if an English translation of the budget is unavailable and such an exhibit is required by Form 18 or Form 18–K.

In an effort both to reduce the number of paper submissions we receive and increase the public's access to these foreign language documents, we propose to amend Rule 306 to eliminate paper submission of the above two types of foreign language documents, and to instead provide for their electronic submission as PDFs.[41] We also propose to amend Rule 311 of Regulation S–T and Form SE to clarify that these two types of foreign language documents may no longer be submitted in paper under the cover of Form SE.

Request for Comment

• Should we allow the two types of foreign language documents specified in Rules 306(b) and (c) to be submitted electronically as PDFs and remove the option to submit them in paper form? If not, why? Should electronic submission of these documents instead be optional?

• If an English translation or summary of a foreign language document has been filed electronically with the Commission, should we require rather than just permit the electronic PDF submission of the unabridged foreign language documents? If so, why?

*F. Transition Period*

We are proposing to provide a six-month transition period after the effective date of the proposed amendments, if adopted, to give registrants sufficient time to prepare to submit electronically their ''glossy'' annual reports to security holders in PDF format in accordance with the EDGAR Filer Manual and to allow paper filers who would be first-time electronic filers adequate time to apply for the necessary filer codes on EDGAR. Similarly, if the proposed amendments are adopted, we are proposing to afford Form 11–K filers a three-year transition period in which to comply with the proposed requirement to submit in XBRL format the financial statements and accompanying notes to the financial statements required by Form 11–K.

Request for Comment

• Are the proposed six-month and three-year transition periods appropriate? Would shorter or longer transition periods be more appropriate?

**III. Economic Analysis**

*A. Introduction*

The Commission is proposing rule and form amendments to update filing requirements under our EDGAR system. We are mindful of the costs imposed by, and the benefits obtained from, our rules and the proposed amendments.[42] The discussion below addresses the potential economic effects of the proposed amendments. These effects include the likely benefits and costs of the proposed amendments and reasonable alternatives thereto, as well as any potential effects on efficiency, competition, and capital formation. We attempt to quantify these economic effects whenever possible; however, due to data limitations, we are unable to do so in many cases. For example, we are unable to quantify the value to the public of being able to more quickly access a document on EDGAR. When we cannot provide a quantitative assessment, we provide a qualitative discussion of the economic effects instead.

The Commission is making the proposed amendments to facilitate the efficient submission of documents submitted to the EDGAR system; to

[37] *See* 17 CFR 230.403; 17 CFR 240.12b–12; and Rule 306 of Regulation S–T.

[38] Rule 306(d) of Regulation S–T provides for one exception to Rule 306(a) and allows for the electronic filing of certain documents that contain both French and English by Canadian issuers [17 CFR 232.306(d)].

[39] *See* 17 CFR 230.403(c); 17 CFR 240.12b–12(d); 17 CFR 232.306(a).

[40] Currently, electronic filers may not submit these untranslated foreign language documents in electronic format. 17 CFR 232.101(c)(8) (''Rule 101(c)(8) of Regulation S–T'') states that documents and symbols in a foreign language shall not be submitted in electronic format and, thus, may only be submitted in paper.

[41] We also propose to remove and reserve Rule 101(c)(8) of Regulation S–T. As noted above, Rule 101(c)(8) prohibits the electronic submission of documents and symbols in a foreign language. We note that even with the proposed removal of this prohibition, Rule 306(a) of Regulation S–T will still generally require all electronic filings and submissions to be in English.

[42] Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] and Section 3(f) of the Exchange Act [15 U.S.C. 78c(f)] require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation. In addition, Section 23(a)(2) of the Exchange Act [15 U.S.C. 78w(a)(2)] requires us to consider the effects on competition of any rules that the Commission adopts under the Exchange Act and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

reduce burdens and inefficiencies associated with the filing, dissemination, storage, and retrieval of non-electronic and paper submissions; to allow for quicker public access to information; to improve the Commission's ability to track and process such filings; and to modernize the Commission's records management processes.

The proposed rule and form amendments would:

- Mandate the electronic filing of several documents that are currently permitted electronic submissions under Regulation S–T, including all filings on Form 6–K and filings made by Development Banks;
- Mandate that certain registrants electronically file their ''glossy'' annual report to security holders;
- Mandate the electronic filing of the certification made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration;
- Mandate the use of the Inline XBRL structured data language for filing annual reports for employee benefit plans on Form 11–K; and
- Allow for the electronic submission in PDF format of certain foreign language documents and remove the option to submit these documents in paper.

*B. Economic Baseline*

The economic baseline, from which we measure the likely economic effects of the proposed amendments, reflects current regulatory practice as it pertains to forms and documents that currently may be submitted to the Commission via EDGAR (henceforth, electronic submissions; we refer to documents submitted through channels outside of EDGAR as non-electronic submissions). Under the current rules, filers have the option to electronically submit, among other things, the following documents: Forms 6–K, notices of exempt solicitation furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(g), notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(n), annual reports for employee benefit plans on Form 11–K, certain reports from Development Banks, certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration, and documents filed with the Commission pursuant to Section 33 of the Investment Company Act. Further, under current rules, certain registrants are required to send several paper copies of their ''glossy'' annual reports to the Commission. Current guidance from the Division of Corporation Finance states that staff will not object if these registrants post a digital copy of their ''glossy'' annual report to security holders on their corporate website for at least one year in lieu of sending paper copies to the Commission or submitting them to EDGAR.[43] In addition, under current rules, annual reports for employee benefit plans on Form 11–K are not required to be submitted using the Inline XBRL structured data language.

In 2020, the Commission received over 24,000 submissions of the following documents: Forms 6–K, notices of exempt solicitation furnished for the information of the Commission, and annual reports on Form 11–K. Of these filings, over 99.9 percent of submissions were electronic, even though filers had the option (at their discretion) to submit these documents in non-electronic format (Table 1). Likewise, filers in 2020 electronically submitted nearly all of the 1,184 certifications filed by an exchange pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3, 23 ''glossy'' annual reports to security holders, and all documents filed pursuant to Section 33 of the Investment Company Act, even though they had the option to submit these documents in non-electronic format. At the same time, in 2020, the Commission also received 135 reports filed by Development Banks, with only 39 percent submitted electronically (Table 1). Thus, during this period, the non-electronic submissions of the aforementioned forms, relative to overall submissions, were largely confined to Development Banks (six unique filers). Moreover, of the over 7,400 registrants that file annual reports with the Commission, [44] only a minimal number of paper and very few electronic ''glossy'' annual reports to security holders were submitted to the Commission in 2020.

For investors, reviewing and analyzing paper documents or documents not available in a central repository like EDGAR is likely more time intensive or costly compared to electronic submissions, given these documents are accessible only in person at Commission facilities or through more diffuse sources such as corporate websites and third-party information providers. Likewise, for Commission staff, receiving and processing non-electronic submissions is often more time intensive than electronic submissions. When the Commission receives a paper submission, the document usually requires several manual steps involving staff in various offices and divisions to process, analyze, and retain the documents for recordkeeping purposes.

*C. Economic Effects*

This section discusses the benefits and costs of the proposed amendments, as well as their potential effects on efficiency, competition, and capital formation. Some of the proposed amendments reflect current practice, so they will likely not have significant economic effects.[45] In addition, where certain benefits or costs of electronic filing apply to multiple proposed amendments, we discuss those benefits or costs together instead of repeating such discussion for each proposed amendment.

1. Benefits

a. Electronic Submission of Form 6–K, Notices of Exempt Solicitation, Notices of Exempt Preliminary Roll-Up, Annual Reports on Form 11–K, Development Bank Reports, Certifications of Approval of Exchange Listing, and Certain Foreign Language Documents in PDF Format

Under the current rules, filers have the option to electronically submit, among other things, documents under cover of Form 6–K, notices of exempt solicitation furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(g), notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(n), annual reports for employee benefit plans on Form 11–K, periodic reports and reports with respect to distributions of primary obligations from Development Banks, certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration, and documents filed with the Commission pursuant to Section 33 of the Investment Company Act. The proposed rule mandates the electronic submission of all of these documents to the Commission. In addition, certain foreign language documents are filed in

[43] *See supra* note 13.

[44] U.S. Sec. & Exch. Comm'n, *Agency Financial Report,* Fiscal Year 2020. *https://www.sec.gov/files/sec-2020-agency-financial-report_1.pdf.*

[45] For example, mandating electronic filings for specific documents, like listing certifications, which, in the 2020 calendar year, were mostly submitted electronically.

paper format under current rules, but would be filed electronically under the proposed rules.[46] There are several benefits of required or permitted electronic submission relative to non-electronic submission under the proposed amendments.

First, electronic submissions are posted on EDGAR faster compared to non-electronic submissions. Thus, the public may be able to find and review a filing more quickly by accessing EDGAR through the Commission's website or through third-party websites that either replicate or link to EDGAR filing information. Moreover, for investors who obtain documents filed with the Commission in paper via third-party entities, electronic filing of these documents would likely reduce the costs associated with obtaining these documents. If these documents inform investors' decisions, this reduction in search costs may allow investors to incorporate more information or make quicker decisions.[47] Electronic filings also increase the likelihood that the Commission receives documents promptly by limiting the possibility and risk that non-electronic submissions are delayed (*e.g.,* a document getting lost in the mail). An increase in the certainty and timeliness of submissions boosts the overall informational quality of the EDGAR system. Third, electronic submissions increase efficiencies in record management and maintenance as well as compliance with the Commission's record keeping requirements as electronic submissions are easier to store, access, search, and track. Furthermore, electronic submissions allow filers to more easily produce and submit documents during disruptive events—like COVID–19—when their physical work facilities may be inaccessible.

In addition, electronic submissions increase the speed and efficiency with which Commission staff can receive and process document submissions, in part by reducing the time, processing, and search costs relative to the manual nature of non-electronic document submissions. A reduction in these costs may improve regulatory oversight.

Overall, as most of the affected documents are already submitted electronically, the proposed amendments would likely only yield incremental benefits for investors, filers, and Commission staff and would likely result in small aggregate economic effects.

b. ''Glossy'' Annual Reports to Security Holders

The proposed amendments also mandate that certain registrants electronically file their ''glossy'' annual reports to security holders. This could result in several benefits for investors, filers, and the Commission.

First, the proposed amendments would ensure that investors have long-term access to ''glossy'' annual reports to security holders in a centralized location. Current rules do not require the preservation of these reports in a centralized location, and to the extent that registrants were posting these reports on their websites consistent with the 2016 Division of Corporate Finance staff guidance, these registrants could remove these reports from their firm websites after one year (*e.g.,* at the registrant's discretion or due to registrant failures, mergers, etc.). Further, if a registrant takes its ''glossy'' annual report to security holders off its website, obtaining a copy may be costly (*e.g.,* via a third-party entity) or impossible if no third-party has a saved copy. With a central EDGAR repository, investors would incur minimal search costs for these reports.

These benefits of an EDGAR glossy report repository likely extend to and may be magnified for investors seeking to review and analyze ''glossy'' annual reports to security holders in bulk. For these latter investors, a unified file format for ''glossy'' annual reports to security holders in a centralized location (*i.e.,* EDGAR) would further likely create opportunities for data processing relative to the current baseline.

Further, we expect that this amendment would yield benefits similar to those discussed above under section III.C.1.a for electronic submissions. For example, some registrants will save on print and delivery costs. Such cost savings are likely small, but any such benefits may accrue to investors to the extent that these registrants allocate the savings to increase firm efficiency or return capital to investors. In addition, the amended rule would ensure that investors and Commission staff are able to easily access the ''glossy'' annual reports to security holders, including when navigating disruptive events, such as COVID–19, when physical offices may be less accessible. The Commission may also save on time and manual processing costs relative to its pre-2014 practice of scanning paper submissions.

c. Inline XBRL Requirement for Form 11–K

The proposed rule also requires filers to submit annual reports for employee benefit plans on Form 11–K using the Inline XBRL structured data language. Currently, reports on Form 11–K that are filed electronically must be filed in HTML or ASCII.[48]

Requiring Form 11–K disclosures to be submitted in Inline XBRL could benefit those participating in employee benefit plans by facilitating analysis of the plan's annual financial disclosures over time and relative to other plans.[49] Investors in the plans' sponsoring companies may also benefit from structured 11-Ks, as structured data may reduce processing and search costs incurred by investors assessing the employee benefit plans' underlying assets and liabilities. In addition, requiring Form 11–K disclosures to be submitted in Inline XBRL could enable the development of additional structured data sets and tools to facilitate market analysis and better inform future policy decisions.[50]

2. Costs

Requiring electronic submissions may result in costs to filers, including those associated with filing a Form ID for the first time to obtain the access codes needed to submit an application on the Commission's EDGAR system.

[46] *See supra* Section II.E.

[47] Other than the foreign language documents and certifications that a security has been approved by an exchange for listing and registration, which would be submitted in PDF format, the format requirement for electronic filings on EDGAR under the proposed rule would be dictated by the EDGAR Filer Manual, which allows for HTML or ASCII submissions. *See* 2021 EDGAR Filer Manual, Sections 2.1 and 5.2. The benefits and costs discussed in this Section III with respect to electronic filings instead of the current paper submissions are those that we would expect to be realized from HTML, ASCII, or PDF submissions on EDGAR. These benefits and costs substantially arise to the same extent regardless of whether the filer uses the ASCII, HTML, or PDF format. All three formats are widely used, and none of them requires significant special expertise for their preparation, submission, or ingestion.

[48] *See* Rules 101(b)(3) [17 CF 232.101(b)(3)] and 301 of Regulation S–T [17 CFR 232.301]; *see also* 2021 EDGAR Filer Manual, Sections 2.1 and 5.2.

[49] Currently, operating company financial disclosures in certain periodic reports and registration statements are required to be structured in XBRL or Inline XBRL, depending on the filing date. Research analyzing XBRL and Inline XBRL disclosures have found informational benefits relative to unstructured disclosures. *See, e.g,* Steven Cahan, et. al., ''The roles of XBRL and processed XBRL in 10–K readability,'' J of Bus. Fin. & Acct. (2021); Nerissa C. Brown, Brian Gale, Stephanie M. Grant, ''How Do Disclosure Repetition and Interactivity Influence Investors' Judgments?,'' *SSRN Elec J (2020);* Jacqueline L. Birt, Kala Muthusamy, and Poonam Bir, ''XBRL and the qualitative characteristics of useful financial information'', *Acct. Res. J. (2017), https://www.emerald.com/insight/publication/issn/1030-9616.*

[50] The Commission currently makes XBRL datasets for operating company financial statements and footnotes and mutual fund risk/return summaries available on its website. *See* DERA Data Library, U.S. Sec. & Exch. Comm'n, at *https://www.sec.gov/dera/data* (last modified Oct. 4, 2021).

With respect to the documents that are mostly submitted electronically under current rules (*e.g.,* Forms 6–K, Notices of Exempt Solicitation, Certifications of Approval of Exchange Listing (Table 1)), these costs likely would be minimal. For documents that are not generally submitted electronically under current rules but would be newly required to be electronically submitted under the proposed amendments (*e.g.,* ''glossy'' annual reports to security holders), registrants would incur additional costs to upload such documents to EDGAR.[51] As noted in section III.B, there are over 7,400 registrants who would be required to electronically file their ''glossy'' annual reports to security holders under the proposed amendments. We expect that these costs would be mitigated because these registrants are already electronically filing documents on EDGAR. For filers submitting documents electronically to EDGAR for the first time, any initial setup costs would likely be offset by lower ongoing, marginal costs over time.

Requiring Inline XBRL structuring of annual reports on Form 11–K would result in additional compliance costs for filers relative to the current baseline, as filers would be required to tag and review the required Form 11–K disclosures before filing them with the Commission.[52] Various XBRL and Inline XBRL preparation solutions have been developed and used by operating companies and open-end fund filers to fulfill their structuring requirements, and some evidence suggests that, for operating companies, XBRL compliance costs have decreased over time.[53] Furthermore, while Form 11–Ks are filed by employee stock plans, which are not currently subject to other Inline XBRL filing requirements, the plans' sponsoring companies (*i.e.,* the employers) are subject to Inline XBRL requirements for publicly filed annual and interim financial statements, among other disclosures.[54] To the extent that a plan shares compliance systems with the sponsoring company, the Inline XBRL compliance costs incurred maybe somewhat mitigated.

3. Efficiency, Competition, and Capital Formation

Since we expect the proposed amendments to lead to minimal changes in costs and have only incremental benefits, we expect the proposed amendments to only marginally affect efficiency, competition, or capital formation.

As previously noted, electronic filings will increase the timeliness or ease with which the public can access the affected documents. Insofar as investors incorporate these documents into their information sets, easier or quicker access could result in lower search costs or more efficient decision making. These benefits, while likely small, are potentially magnified during disruptive events, such as COVID–19, which can make it difficult for registrants to make submissions in non-electronic form and thus impede timely access to information. Moreover, as electronic filings often lead to lower ongoing, marginal costs for filers, compared to, for example, paper filings, the filing process may become more efficient, especially over the medium and longer term. We do not expect the amendments to have meaningful effects on competition or capital formation.

*D. Reasonable Alternatives*

In formulating the proposed amendments, we considered requiring some, but not all, of the affected documents to be filed electronically. This alternative would reduce the benefits, compared to the proposed amendments, but also would reduce the initial transition burden for filers that do not have other electronic disclosure obligations. However, as discussed above, many of the affected documents under the proposed amendments are already filed electronically, and to the extent affected documents (*e.g.,* ''glossy'' annual reports to security holders) are not already filed electronically, the filers of affected documents electronically file other documents. Further, any setup costs for first time filers are at least partially offset by lower marginal costs.

We also considered permitting registrants to post their ''glossy'' annual reports to security holders on their websites in lieu of electronic submission consistent with the 2016 staff guidance. While this alternative may reduce costs for some registrants who currently post ''glossy'' annual reports to security holders on their websites, we do not anticipate that the costs of submitting these reports on EDGAR would be unduly burdensome for most filers. Further, this alternative would also reduce the benefits compared to the proposed amendment, because it would not offer market participants access to ''glossy'' annual reports to security holders in a centralized location.

*E. Request for Comment*

The Commission requests feedback on any aspect of the above economic analysis, including our description of the current economic baseline, the potential costs and benefits of the proposed amendments, their effect on efficiency, competition, and capital formation, and any reasonable alternatives we should consider. In addition, we request comment on the following aspect of the proposal:

Would filers, investors, and other interested parties realize any benefits if we required the affected documents (other than annual reports on Form 11–K) to be submitted in a structured data language, such as a custom XML-based data language, rather than in ASCII or HTML (or, for the foreign language documents and exchange certifications, in PDF)? Please explain why or why not. If so, are there certain documents in particular that would provide such benefits to filers, investors, and other interested parties if submitted in a structured data language? What costs would these parties incur if we required such documents to be submitted using a structured data language?

Further, would filers respond to the proposed mandate to file ''glossy'' annual reports to security holders on EDGAR by changing how they present the information in those reports? If so, please explain how, including whether or not investors or other market participants would realize costs or benefits as a result of any such changes.

[51] For purposes of the Paperwork Reduction Act (PRA), we estimate that the additional burden to submit an electronic copy of the ''glossy'' annual report would be 2 internal hours per year. *See* Section IV, *infra.*

[52] An AICPA survey of 1,032 reporting companies with $75 million or less in market capitalization in 2018 found an average cost of $5,850 per year, a median cost of $2,500 per year, and a maximum cost of $51,500 per year for fully outsourced XBRL creation and filing, representing a 45% decline in average cost and a 69% decline in median cost since 2014. *See* Michael Cohn, *AICPA sees 45% drop in XBRL costs for small companies,* Acct. Today, August 15, 2018, *https://www.accountingtoday.com/news/aicpa-sees-45-drop-in-xbrl-costs-for-small-reporting-companies.* A NASDAQ survey of 151 listed issuers in 2018 found an average XBRL compliance cost of $20,000 per quarter, a median XBRL compliance cost of $7,500 per quarter, and a maximum XBRL compliance cost of $350,000 per quarter. *See* letter from Nasdaq, Inc. dated March 21, 2019 to the Request for Comment on Earnings Releases and Quarterly Reports, Release No. 33–10588 (Dec. 18, 2018) [83 FR 65601 (Dec. 21, 2018)]. For purposes of the Paperwork Reduction Act (PRA), we estimate that the additional burden on 11–K filers to submit financial information in Inline XBRL format would be approximately 65 hours of internal time and cost $7,500 for outside services per year. *See* Section IV, *infra.*

[53] *See id.*

[54] *See* 17 CFR 232.405; 17 CFR 232.406; and Items 601(b)(101) and 601(b)(104) of Regulation S–K.

## IV. Paperwork Reduction Act

### A. Background

Certain provisions of our rules and forms that would be affected by the proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[55] The Commission is submitting the proposal to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[56] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collection are not kept confidential and there is no mandatory retention period for the information disclosed. The title for the collection of information is:

- Schedule 14A (OMB Control Number 3235–0059) [57]
- Schedule 14C (OMB Control Number 3235–0057) [58]
- Form 20–F (OMB Control Number 3232–0288)
- Form 40–F (OMB Control Number 3235–0381)
- Form 11–K (OMB Control Number 3235–0082)
- Form ID (OMB Control Number 3235–0328)

Schedule 14A, Schedule 14C, Form 20–F, Form 40–F, and Form 11–K were adopted under the Securities Act and the Exchange Act. The schedules and forms set forth the disclosure requirements for periodic and current reports, proxy statements, and information statements filed to help investors make informed investment and voting decisions. Form ID is used by registrants, individuals, third party filers or their agents to request access codes that permit the filing of documents on EDGAR in accordance with Rule 10 of Regulation S–T.[59]

### B. Summary of the Proposed Amendments

As described in more detail above, we are proposing amendments to mandate the electronic filing or submission of most of the documents that are currently permissible electronic submissions under Rule 101(b) of Regulation S–T; mandate the electronic submission in PDF format of the ''glossy'' annual report to security holders; mandate the electronic filing of the certification made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration; mandate the use of Inline XBRL for the filing of the financial statements and accompanying notes to the financial statements required by Form 11–K; and allow for the electronic submission in PDF format of certain foreign language documents.

### C. Burden and Cost Estimates Related to the Proposed Amendments

The proposed amendments do not change the nature or extent of the information that is currently collected under Rules 101(b)(2), (5), (6), or (9) or foreign language documents submitted under Rule 306. Accordingly, we believe that the information collection burden of associated forms, schedules, reports, and applications would remain the same.

With respect to the electronic submission in PDF format of the ''glossy'' annual report to security holders, we estimate the number of registrants potentially affected by the proposed rule to be over 7,400. Of these registrants, only twenty-three filed their ''glossy'' annual reports to security holders on EDGAR during 2020 and none of the submissions were made on EDGAR in PDF format.[60] The affected registrants are all EDGAR filers who would not need to secure new credentials in order to submit the reports. However, the proposed amendments nonetheless impose a new burden that would be borne by all of the 7,400 registrants required to submit ''glossy'' annual reports to security holders to the Commission. We estimate that the proposed amendments would cause a registrant to incur an increase of 2 hours in the reporting burden for the annual report to security holders. We anticipate that this time would be required to prepare, convert into PDF format (if PDF format is not already used for the report to security holders), and review the ''glossy'' annual reports to security holders to be submitted electronically in accordance with the EDGAR Filer Manual.

With respect to Schedules 14A and 14C,[61] we estimate that the number and proportion of filings will remain approximately the same as the currently approved collection under the Office of Management & Collection guidelines. Accordingly, we estimate that the proposed amendment to require the electronic submission in PDF format of ''glossy'' annual reports to security holders would impose aggregate additional burdens on filers of Schedule 14A and 14C of 10,407 hours [62] and $1,387,600,[63] respectively.

With respect to Forms 20–F and 40–F,[64] we also estimate that the number and proportion of filings will remain approximately the same as the currently approved collection burden. These filers would be subject to the proposed requirement to make an electronic submission in PDF format of the ''glossy'' annual report to security holders. Accordingly, we estimate that the proposed amendment to require the electronic submission in PDF format of ''glossy'' annual reports to security holders would impose aggregate additional burdens on filers of 430 hours [65] and $516,600,[66] respectively.

With respect to the proposed amendment to require the submission of the financial statements in the Form 11–K in Inline XBRL format, we estimate that the number of affected registrants

[55] 44 U.S.C. 3501 *et seq.*

[56] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[57] As described below, our estimates for Schedule 14A and Schedule 14C take into account the burden that would be incurred by the proposed amendments to require electronic submission of the ''glossy'' annual report to security holders. *See also infra* note 61.

[58] *See id.*

[59] 17 CFR 232.10(b).

[60] All EDGAR submission of the ''glossy'' annual report to security holders in 2020 were made in HTML format.

[61] Schedules 14A and 14C require disclosure under Subpart 400 of Regulation S–K. This disclosure is often incorporated, in relevant part, into Part III of a registrant's Form 10–K and is provided as part of the ''glossy'' annual report to security holders. Therefore, we have not separately calculated burden requirements for Form 10–K.

[62] Under OMB guidelines, the paperwork burden is apportioned 75% to the registrant and 25% to outside professional services. Accordingly, this estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.75), by the number of responses under Schedule 14A and 14C in the currently approved collection (6,938), or $2.75 \times 6{,}938$.

[63] This estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.25), by the number of responses under Schedules 14A and 14C in the currently approved collection (6,938), by an estimated $400 hourly rate for outside professional services, or $2 \times 25 \times 6{,}938 \times \$400$.

[64] Forms 20–F and 40–F provide the disclosure requirements for the annual reports of foreign private issuers, which are included in the ''glossy'' annual reports to security holders. Therefore, we have not separately calculated burden requirements for Form 6–K.

[65] Under OMB guidelines, the paperwork burden is apportioned 25% to the registrant and 75% to professional services. Accordingly, this estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.25), by the number of responses under Forms 20–F and 40–F in the currently approved collection (861), or $2 \times .25 \times 861$.

[66] This estimate was calculated by multiplying the additional hours burden (2), by the burden split assigned by the Office of Management and Budget (.75), by the number of responses under Forms 20–F and 40–F in the currently approved collection (861), by an estimated $400 hourly rate for professional services, or $2 \times .75 \times 861 \times \$400$.

would be 1,066.[67] The Commission previously estimated that, per response, operating companies submitting financial information in Inline XBRL format required 54 burden hours of internal time to prepare the tagged data and incurred a cost $6,175 for outside services.[68] The proposed amendments would subject employee purchase plans, savings plans, and similar plans to the same Inline XBRL reporting requirements. Therefore, we assume that these plans would experience similar burden hours and costs as do operating companies.

We have also further adjusted our burden estimates to account for the particular circumstances applicable to Form 11–K filers. We increased our estimate of the initial burden hours and costs of the proposed amendments to reflect one-time compliance costs. As new XBRL filers, we anticipate that Form 11–K filers would experience additional burdens related to the one-time costs associated with becoming familiar with Inline XBRL reporting. These costs would include, for example, the acquisition of new software or the services of consultants, and the training of staff.[69] We also assumed that these one-time costs would decline in the second and third year of compliance with the proposed amendments, as Form 11–K filers become more efficient at preparing submissions using Inline XBRL format.[70] We assumed that the one-time cost would result in a 50% incremental increase in the internal burdens and external costs of structuring the data in the financial statements and accompanying footnotes of the financial statements to Form 11–K.[71] These incremental costs would subsequently decline in the second and third years by 75% from the immediately preceding year.[72] Accordingly, we estimate that the proposed amendment to require Form 11–K filers to submit the financial information in Inline XBRL format would, for each filer, result in incremental PRA burdens of 11.81 hours of internal time and $1,350.78 in costs for outside professional services (above those burdens borne by operating companies submitting financial information in Inline XBRL).[73] In aggregate, we estimate these burdens to be 70,153[74] and $8,021,650,[75] respectively.

Lastly, the small number of filers that have not previously made an electronic filing on EDGAR would be required as a result of the proposed amendments to file a Form ID to obtain the access codes that are required to file or submit a document on EDGAR.[76] There are currently two Development Banks that fall into this category. We anticipate that each respondent would require 0.15 hours to complete the Form ID, and for purposes of the PRA, that 100% of the burden of preparation for Form ID will be carried by each respondent internally. Therefore, we anticipate that proposed amendments would result in a nominal increase of .30 annual burden hours for Form ID, which would not meaningfully add to, and would effectively be encompassed by, the existing burden estimates associated with these forms.[77]

The tables below illustrate the estimated incremental changes to the total annual compliance burden of the affected forms, discussed above, in hours and in costs, as a result of the proposed amendments.

TABLE 2—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS [2]

| | Current annual responses (A) | Current burden hours (B) | Current cost burden (C) | Proposed change in annual responses (D) | Proposed change in burden hours (E) | Proposed change in professional costs (F) | Proposed annual affected responses (G) = (A) + (D) | Proposed burden hours for affected response (H) = (B) + (E) | Proposed cost burden for affected responses (I) = (C) + (F) |
|---|---|---|---|---|---|---|---|---|---|
| Schedule 14A | 6,369 | 777,590 | 103,678,712 | 0 | 9,574 | $1,276,592 | 6,369 | 787,164 | $104,465,376 |
| Schedule 14C | 569 | 56,356 | 7,514,944 | 0 | 832 | 111,008 | 569 | 57,188 | 7,625,952 |
| Form 20–F | 729 | 479,261 | 576,824,025 | 0 | 364 | 437,400 | 729 | 479,625 | 577,261,425 |
| Form 40–F | 132 | 14,237 | 17,084,560 | 0 | 66 | 79,200 | 132 | 14,303 | 17,163,760 |
| Form 11–K | 1,302 | 39,060 | 0 | (236) | 70,153 | 8,021,650 | 1,066 | 109,213 | 8,021,650 |
| Form ID | 57,681 | 8,652 | 0 | 2 | .3 | 0 | 57,683 | 8,652 | 0 |

[1] We note that the proposed decrease in responses on Form 11–K reflects the actual number of Forms received in 2020. This decrease is not the result of the proposed amendments which we do not expect to affect the number of responses submitted on Form 11–K.

[67] In aggregate, there were 1,066 Forms 11–K submitted in paper and electronic format in 2020 and none of these filings contained Inline XBRL data-tagging. We do not expect the increased burdens on filers to structure the financial data as required under the proposed amendments would affect the number of annual responses submitted to the Commission.

[68] Securities Offering Reform for Closed-End Investment Companies, Investment Company Act Release No. 33427 (Mar. 20, 2019). *See also* Inline XBRL Adopting Release, *supra* note 31.

[69] According to the OMB approved collection for Form 11–K, the burden associated with the preparation of this Form has previously been borne entirely by filers. In other words, registrants have not needed to retain outside professional services to prepare the submission. With the imposition of XBRL tagging requirements under the proposed amendments, we note that registrants will now be required to retain outside professional services in order to properly tag the financial statements and accompanying notes to the financial statements.

[70] We also expect filers to benefit from access to an established vendor community experienced in applying Inline XBRL data-tagging to Commission filings.

[71] We estimate, for the proposed Form 11–K financial information XBRL requirement, that in the first year the one-time cost would be an additional 27 hours ($54 \times 0.5$) and $3,087.5 in external costs ($\$6,175 \times 0.5$).

[72] We estimate that for the second year the one-time hour burden and cost of the proposed Form 11–K financial information XBRL requirement would be 6.75 hours (27 hours − ($27 \times 0.75 = 20.25$ hours)) and $771.87 ($3,087.5 − ($3,087.5 × 0.75 = $2,315.63)). For the third year, we estimate that these hour burdens and costs would be 1.69 hours (6.75 hours − ($6.75 \times 0.75 = 5.06$ hours)) and $192.97 ($771.87 − ($771.87 × 0.75 = $578.90)). Average yearly change in the initial one-time cost of the proposed Form 11–K financial information XBRL requirement would be (27 + 6.75 +1.69)/3 = 11.81 hours of internal in-house time, and ($3,087.5 + $771.87 + $192.97)/3 = $1,350.78 in external costs.

[73] *See supra* note 68.

[74] This estimate was calculated by adding the estimated XBRL hour burden for operating companies (54 hrs) plus the average additional incremental hour burden for Form 11–K filers (11.81), then multiplying the sum by the estimated number of Form 11–K filers (1,066), or (54 + 11.81) 1,066.

[75] This estimate was calculated by adding the estimated XBRL cost burden for operating companies ($6,175) plus the average additional incremental cost burden for Form 11–K filers ($1,350), then multiplying the sum by the estimated number of Form 11–K filers (1,066), or ($6,175 + $1,350) 1,066.

[76] Based on an internal review by the staff, we have determined that all filers under Rule 101(b), except for two filers under Rule 101(b)(5), have previously filed a Form ID in connection with other EDGAR filing obligations.

[77] The proposed amendments would not affect the paperwork burden incurred by filers that have previously submitted a Form ID because filers are required to submit the form only once in order to enroll in the EDGAR filing system.

*D. Request for Comment*

• Would the proposed amendments to mandate the electronic submission in PDF format of the ''glossy'' annual report to security holders impose additional PRA burden on existing EDGAR filers not encompassed by existing burden estimates? If so, please explain what additional burden would be imposed.

We request comments in order to evaluate: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information; (3) whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) 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.[78]

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, with reference to File No. S7–16–21. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–16–21 and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington DC 20549. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, a comment to the OMB is best assured of having its full effect if the OMB receives it within 30 days of publication.

## V. Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis (IRFA) has been prepared in accordance with the Regulatory Flexibility Act.[79] It relates to proposed amendments that would (1) mandate the electronic filing or submission of most of the documents that are currently permissible electronic submissions under Rule 101(b) of Regulation S–T; (2) mandate the electronic submission in PDF format of the ''glossy'' annual report to security holders; (3) mandate the electronic filing of the certification made pursuant to Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration; (4) mandate the use of Inline XBRL for the filing of financial statements and accompanying notes to the financial statements required by Form 11–K; and (5) allow for the electronic submission in PDF format of certain foreign language documents.

*A. Reasons for, and Objectives of, the Proposed Action*

The main purpose of the proposed amendments is to facilitate more efficient transmission, dissemination, analysis, storage and retrieval of documents that are currently filed in paper. In addition, the proposed amendments are intended to improve investors' and other EDGAR users' access to the information in these documents.

*B. Legal Basis*

We are proposing the amendments under Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 14, 15(d), 16, 23(a), and 35A of the Exchange Act.

*C. Small Entities Subject to the Proposed Rules*

The proposed amendments would affect some registrants that are small entities. The Regulatory Flexibility Act defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [80] For purposes of the Regulatory Flexibility Act, under our rules, a registrant, other than an investment company, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities that does not exceed $5 million.[81] An investment company, including a business development company,[82] is considered to be a ''small business'' if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[83] We believe that the proposal may affect some small entities that are investment companies. We estimate that there are 979 issuers that file with the Commission, other than investment companies, that may be considered small entities.[84] In addition, we estimate that, as of June 2021, there are approximately 70 investment companies, including 9 business development companies, that would be subject to the proposed amendments that may be considered small entities.[85]

*D. Proposed Reporting, Recordkeeping, and Other Compliance Requirements*

As noted in Section IV, the proposed amendments would not substantively affect the filings currently made under Rules 101(b)(2), (5), (6), or (9) or the foreign language documents submitted under Rule 306. Therefore, the reporting or compliance burdens associated with associated forms, schedules, reports, and applications for small entities would remain unchanged under these proposed amendments.

However, the proposed amendments would impose new submission obligations on certain registrants. In particular, the proposed amendments mandate the electronic submission in PDF format of the ''glossy'' annual report to security holders and the electronic submission in Inline XBRL format of the financial statements and accompanying notes required by Form 11–K. In addition, to the extent that a filer has not previously filed documents electronically, registrants who previously filed or submitted in paper format under Rule 101(b) would need to complete and send to the Commission a Form ID to obtain electronic filing credentials.

Section II discusses the proposed amendments in detail. Sections III and IV discuss the economic impact, including the estimated costs and benefits, of the proposed amendments to all affected entities.

[78] We request comment pursuant to 44 U.S.C. 3506(c)(2)(B).

[79] 5 U.S.C. 601 *et seq.*

[80] 5 U.S.C. 601(6).

[81] *See* 17 CFR 240.0–10(a).

[82] Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64].

[83] 17 CFR 270.0–10(a).

[84] This estimate is based on staff analysis of issuers, excluding co-registrants, subsidiaries, or ABS issuers, with EDGAR filings of Forms 10–K, 20–F, and 40–F, or amendments to these forms, filed during the calendar year of January 1, 2020, to December 31, 2020 or filed by September 1, 2021 that, if timely filed by the applicable deadline, would have been filed between January 1 and December 31, 2020. Analysis is based on data from XBRL filings, Compustat, and Ives Group Audit Analytics and manual review of filings submitted to the Commission.

[85] *See* 17 CFR 240.0–10.

*E. Duplicative, Overlapping, or Conflicting Federal Rules*

The proposed amendments would not duplicate, overlap, or conflict with other Federal rules.

*F. Significant Alternatives*

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposed amendments, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

Partially or completely exempting small entities from the proposed electronic filing requirements would undermine our stated objective of facilitating more efficient transmission, dissemination, analysis, storage and retrieval of documents that are currently filed in paper, and we expect any increased burden associated with most of the proposed amendments to be small. With respect to the proposed amendments to mandate the electronic submission in PDF format of ''glossy'' annual reports to security holders and the proposed amendments to mandate the use of Inline XBRL for the filing of financial statements and accompanying notes to the financial statements required by Form 11–K, we are proposing a six-month and three-year transition periods, respectively, for all registrants, including small entities. We believe these transition periods would provide adequate time for all filers to prepare for and manage the burdens associated with these new obligations. Moreover, to the extent that the proposed amendments increase the ease and efficiency with which certain documents can be submitted to the Commission, they should benefit all filers, including small entities. In this regard, it appears that few filers currently take advantage of paper filing options under our current rules. For these reasons, we do not believe that it is necessary to establish different compliance timetables or reporting requirements for small entities or to clarify, consolidate or simply the proposed amendments requirements.

The proposed amendments use design rather than performance standards in order to promote uniform filing requirements for all registrants.

*G. Request for Comment*

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comments regarding:

- The number of small entity issuers that may be affected by the proposed amendments;
- The existence or nature of the potential impact of the proposed amendments on small entity issuers discussed in the analysis; and
- How to quantify the impact of the proposed amendments.

Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

## VI. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''),[86] a rule is ''major'' if it has resulted, 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 the proposed amendments would be a ''major rule'' for purposes of SBREFA. We solicit comment and empirical data on: (a) The potential annual effect on the economy; (b) any potential increase in costs or prices for consumers or individual industries; and (c) any potential effect on competition, investment or innovation.

## VII. Statutory Authority

The amendments contained in this release are being proposed under the authority set forth in Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 14, 15(d), 16, 23(a) and 35A of the Exchange Act.

## List of Subjects in 17 CFR Parts 230, 232, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

[86] Public Law 104–121, Title II, 110 Stat. 857 (1996).

## Text of the Proposed Amendments

For the reasons set out in the preamble, the Commission propose to amend title 17, chapter II of the Code of Federal Regulations as follows:

## PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The general authority citation for part 230 continues to read as follows:

**Authority:** 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 2. Amend § 230.158 by revising paragraph (b)(2) to read as follows:

**§ 230.158 Definitions of certain terms in the last paragraph of section 11(a).**

* * * * *

(b) * * *

(2) Has filed its report or reports on Form 10–K, Form 10–Q, Form 8–K, Form 20–F, Form 40–F, or Form 6–K, or has submitted to the Commission in electronic format, in accordance with the EDGAR Filer Manual, its annual report sent to security holders pursuant to (§ 240.14a–3(c) of this chapter (Rule 14a–3(c)) containing such information. A registrant may use other methods to make an earning statement ''generally available to its security holders'' for purposes of the last paragraph of section 11(a).

* * * * *

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

■ 3. The general authority citation for part 232 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 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.

* * * * *

■ 4. Amend § 232.11 by revising the definition of ''Related Official Filing'' to read as follows:

* * * * *

*Related Official Filing.* The term Related Official Filing means the ASCII or HTML format part of the official filing with which an Interactive Data File appears as an exhibit or, in the case of a filing on Form N–1A (§§ 239.15A and 94 274.11A of this chapter) or Form 11–K (§ 249.311), if applicable, the ASCII or HTML format part of an official

filing that contains the information to which an Interactive Data File corresponds.

* * * * *

■ 5. Amend § 232.101 by:
■ a. Revising paragraphs (a)(1)(i) and (iii);
■ b. Removing the word ''and'' at the end of paragraph (a)(1)(xix);
■ c. Adding and reserving paragraphs (a)(1)(xxii) and (xxiii);
■ d. Adding paragraphs (a)(1)(xxiv) through (xxviii);
■ e. Removing and reserving paragraphs (b)(1) through (3), (5), (6), and (9), (c)(6) and (8); and
■ f. Revising the heading and introductory text of paragraph (c).

The revisions and additions to read as follows:

**§ 232.101 Mandated electronic submissions and exceptions.**

(a) * * *

(1) * * *

(i) Registration statements and prospectuses filed pursuant to the Securities Act (15 U.S.C. 77a, *et seq.*), registration statements filed pursuant to Sections 12(b) or 12(g) of the Exchange Act (15 U.S.C. 78*l*(b) or (g)), and certifications that a security has been approved by an exchange for listing and registration filed pursuant to Section 12(d) of the Exchange Act (15 U.S.C. 78*l*(d)) and § 240.12d1–3 of this chapter (Rule 12d1–3) under the Exchange Act. The certification that a security has been approved by an exchange for listing and registration must be made on EDGAR in the electronic format required by the EDGAR Filer Manual, as defined in § 232.11 of this chapter (Rule 11 of Regulation S–T). Notwithstanding § 232.104 of this chapter (Rule 104 of Regulation S–T), the certification filed under this paragraph will be considered as officially filed with the Commission;

* * * * *

(iii) Statements, reports and schedules filed with the Commission pursuant to sections 13, 14, 15(d) or 16(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78o(d), 78p(a)), and proxy materials required to be furnished for the information of the Commission pursuant to Rules 14a–3 and 14c–3 or in connection with annual reports on Form 10–K (§ 249.310 of this chapter) pursuant to section 15(d) of the Exchange Act;

**Note 1.** 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.** Foreign private issuers must file or submit their Form 6–K reports (§ 249.306 of this chapter) in electronic format.

* * * * *

(xxii) [Reserved]

(xxiii) [Reserved]

(xxiv) Annual reports to security holders furnished for the information of the Commission under § 240.14a–3(c) of this chapter or § 240.14c–3(b) of this chapter, under the requirements of Form 10–K (§ 249.310 of this chapter) filed by registrants under Exchange Act Section 15(d) (15 U.S.C. 78o(d)), or by foreign private issuers filed on Form 6–K (§ 249.306 of this chapter) under § 240.13a–16 of this chapter or § 240.15d–16 of this chapter;

(xxv) Notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a–6(g) (§ 240.14a–6(g) of this chapter) and notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to § 240.14a–6(n) of this chapter (Rule 14a–6(n));

(xxvi) Form 11–K (§ 249.311 of this chapter);

(xxvii) Periodic reports and reports with respect to distributions of primary obligations filed by:

(A) The International Bank for Reconstruction and Development under Section 15(a) of the Bretton Woods Agreements Act (22 U.S.C. 286k–1(a)) and part 285 of this chapter;

(B) The Inter-American Development Bank under Section 11(a) of the Inter-American Development Bank Act (22 U.S.C. 283h(a)) and part 286 of this chapter;

(C) The Asian Development Bank under Section 11(a) of the Asian Development Bank Act (22 U.S.C. 285h(a)) and part 287 of this chapter;

(D) The African Development Bank under Section 9(a) of the African Development Bank Act (22 U.S.C. 290i–9(a)) and part 288 of this chapter;

(E) The International Finance Corporation under Section 13(a) of the International Finance Corporation Act (22 U.S.C. 282k(a)) and part 289 of this chapter; and

(F) The European Bank for Reconstruction and Development under Section 9(a) of the European Bank for Reconstruction and Development Act (22 U.S.C. 290*l*–7(a)) and part 290 of this chapter;

(xxviii) A report or other document submitted by a foreign private issuer under cover of Form 6–K (§ 249.306 of this chapter) that the issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer's ''home country''), or under the rules of the home country exchange on which the issuer's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, has not already been the subject of a Form 6–K or other Commission filing or submission on EDGAR; and

(xxix) Documents filed with the Commission pursuant to section 33 of the Investment Company Act (15 U.S.C. 80a–32).

* * * * *

(c) Documents that shall not be submitted in electronic format on EDGAR. Except as otherwise specified in paragraph (d) of this section, the following shall not be submitted in electronic format on EDGAR:

* * * * *

■ 6. Amend § 232.306 by revising the first sentence of paragraph (a) and paragraphs (b) and (c) to read as follows:

**§ 232.306 Foreign language documents and symbols.**

(a) All electronic filings and submissions must be in the English language, except as otherwise provided by paragraphs (b) through (d) of this section. * * *

(b) When including an English summary or English translation of a foreign language document in an electronic filing or submission, a party may also submit a copy of the unabridged foreign language document with the filing in the electronic format required by the EDGAR Filer Manual. A filer must provide a copy of any foreign language document upon the request of Commission staff.

(c) A foreign government or its political subdivision must electronically file a fair and accurate English translation, if available, of its latest annual budget as presented to its legislative body, as Exhibit B to Form 18 (§ 249.218 of this chapter) or Exhibit (c) to Form 18–K (§ 249.318 of this chapter). If no English translation is available, a foreign government or political subdivision must submit a copy of the foreign language version of its latest annual budget with the filing in the electronic format required by the EDGAR Filer Manual.

* * * * *

■ 7. Amend § 232.311 by:
■ a. Revising paragraphs (b) and (c); and
■ b. Removing and reserving paragraphs (d) through (f).

The revisions to read as follows:

**§ 232.311 Documents submitted in paper under cover of Form SE.**

* * * * *

(b) The Form SE shall be submitted in the following manner:

(1) If the subject of a temporary hardship exemption is an exhibit only, the filer must file the exhibit and a Form TH (§§ 239.65, 249.447, 269.1, and 274.404 of this chapter) under cover of Form SE (§§ 239.64, 249.444, 269.8, and 274.403 of this chapter) no later than one business day after the date the exhibit was to be filed electronically.

(2) An exhibit filed pursuant to a continuing hardship exemption may be filed up to six business days prior to, or on the date of filing of, the electronic format document to which it relates but shall not be filed after such filing date. If a paper document is submitted in this manner, requirements that the document be filed with, provided with or accompany the electronic filing shall be satisfied.

(c) Any requirements as to delivery or furnishing the information to persons other than the Commission shall not be affected by this section.

* * * * *

■ 8. Amend § 232.405 by:

■ a. Revising the introductory text and paragraphs (a)(2) and (4);

■ b. Adding paragraph (b)(4);

■ c. Revising paragraph (e); and

■ d. Revising Note 1 to § 232.405.

The revisions and additions to read as follows:

**§ 232.405 Interactive Data File submissions.**

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), Required Information of Form 11–K (§ 249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), and General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), specify when electronic filers are required or permitted to submit an Interactive Data File (§ 232.11), as further described in the note to this section. This section imposes content, format and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§ 232.11).

(a) * * *

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by § 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), Required Information of Form 11–K (§ 249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), or General Instruction C.4 of Form N–CSR (§ 274.128 of this chapter), as applicable;

* * * * *

(4) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by § 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), Required Information of Form 11–K (§ 249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of 119 this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), or General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), as applicable;

* * * * *

(b) * * *

(4) If the electronic filer is an employee purchase plan, savings plans, or similar plan pursuant to Section 15(d) of the Securities Act, an Interactive Data File must consist of only a complete set of information for all corresponding data in the Related Official Filing, no more and no less, as follows:

(i) The complete set of the electronic filer's financial statements (which includes the face of the financial statements and all footnotes) as required in paragraphs 1., 2., and 3. of Required Information of Form 11–K; and

(ii) All plan financial statements and schedules prepared in accordance with the reporting requirements of ERISA and filed under paragraph 4 of Required Information of Form 11–K.

* * * * *

(e) *Format—Schedules—Generally.* The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of financial statement schedules as set forth in §§ 210.12–01 through 210.12–29 of this chapter (Article 12 of Regulation S–X), or schedules prepared in accordance with the reporting requirements of ERISA and filed under paragraph 4 of Required Information of Form 11–K, must comply with the requirements of paragraphs (c)(1) and (2) of this section, as modified by this paragraph (e). Financial statement schedules as set forth in Article 12 of Regulation S–X, or schedules prepared in accordance with the reporting requirements of ERISA and filed under paragraph 4 of Required Information of Form 11–K must be tagged as follows:

(1) Each complete financial statement schedule must be block-text tagged; and

(2) Within each financial statement schedule,

(i) Each amount (*i.e.,* monetary value, percentage and number) must be tagged separately; and

(ii) Each narrative disclosure may be tagged separately to the extent the electronic filer chooses.

* * * * *

**Note 1 to § 232.405:** Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 239.11 of this chapter (Form S–1), § 239.13 of this chapter (Form S–3), § 239.25 of this chapter (Form S–4), § 239.18 of this chapter (Form S–11), § 239.31 of this chapter (Form F–1), § 239.33 of this chapter (Form F–3), § 239.34 of this chapter (Form F–4), § 249.310 of this chapter (Form 10–K), § 249.308a of this chapter (Form 10–Q), and § 249.308 of this chapter (Form 8–K). Paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of § 239.40 of this chapter (Form F–10) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form F–10. Paragraph 101 of the Instructions as to Exhibits of § 249.220f of this chapter (Form 20–F) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 20–F. Paragraph B.(15) of the

General Instructions to § 249.240f of this chapter (Form 40–F) and Paragraph C.(6) of the General Instructions to § 249.306 of this chapter (Form 6–K) specify the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 249.240f of this chapter (Form 40–F) and § 249.306 of this chapter (Form 6–K). Section 229.601(b)(101) (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F, Required Information of Form 11–K, and paragraph C.(6) of the General Instructions to Form 6–K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with 17 CFR 210.6–01 through 210.6–10 (Article 6 of Regulation S–X). For an issuer that is a management investment company or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), and General Instruction C.4 of Form N–CSR (§ 274.128 of this chapter), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

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

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

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

* * * * *

Sections 239.63 and 239.64 are also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 80a–8, 80a–24, 80a–29, and 80a–37.

■ 10. Amend Form F–10 (referenced in § 239.40) by revising General Instruction II.L to read as follows:

**Note:** The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM F–10**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

* * * * *

**GENERAL INSTRUCTIONS**

* * * * *

II. * * *

L. Where the offering registered on this Form is being made pursuant to the home jurisdiction's shelf prospectus offering procedures or procedures for pricing offerings after the final receipt has been issued, each supplement to, or supplemented version of, the home jurisdiction disclosure document(s) prepared under such procedures shall be filed with the Commission in electronic format via the EDGAR system within one business day after such supplement or supplemented version is filed with the principal jurisdiction. Such filings shall be deemed not to constitute amendments to this registration statement. Each such filing shall contain in the upper right hand corner of the cover page the following legend, which may be set forth in longhand if legible: ''Filed pursuant to General Instruction II.L. of Form F–10; File No. 33–[insert number of the registration statement].''

*Note:* Offerings registered on this Form, whether or not made contemporaneously in Canada, may be made pursuant to National Policy Statement No. 44 shelf prospectus offering procedures and procedures for pricing offerings after the final receipt has been issued. Rules 415 and 430A under the Securities Act are not available for offerings registered on this Form.

* * * * *

■ 11. Amend Form F–X (referenced in § 239.42) by:

■ a. Revising the introductory text to General Instruction II;

■ b. Removing General Instruction II.B.(2) and the corresponding Note on the cover page; and

■ c. Redesignating General Instruction II.B.(3) as General Instruction II.B.(2).

The revisions to read as follows:

**Note:** The text of Form F–X does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM F–X**

**APPOINTMENT OF AGENT FOR SERVICE OF PROCESS AND UNDERTAKING**

* * * * *

**GENERAL INSTRUCTIONS**

* * * * *

II. A filer must file the Form F–X in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with technical questions about EDGAR, to request an access code or problems with filing call the EDGAR Filer Support Office at (202) 551–8900. For assistance with the EDGAR rules, call the Division of Corporation Finance at (202) 551–3600.

* * * * *

■ 12. Amend Form SE (referenced in §§ 239.64, 249.444, 269.8, and 274.403) by:

■ a. On the cover page removing the text ''__ Rule 311 (Permitted Paper Exhibit)'';

■ b. Revising paragraph 1.A of the General Instructions; and

■ c. Revising the first sentence of paragraph 3.B of the General Instructions.

The revisions to read as follows:

**Note:** The text of Form SE does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM SE**

**FORM FOR SUBMISSION OF PAPER FORMAT EXHIBITS BY EDGAR ELECTRONIC FILERS**

* * * * *

**FORM SE GENERAL INSTRUCTIONS**

1. * * *

A. Electronic filers must use this form to submit any paper format exhibit under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, or the Investment Company Act of 1940, provided that the submission of such exhibit in paper is permitted under Rule 201 or 202 of Regulation S–T (§§ 232.201 or 232.202 of this chapter).

* * * * *

3. * * *

B. If you are filing the exhibit under a continuing hardship exemption under

Rule 202 of Regulation S–T (§ 232.202 of this chapter), you may file the exhibit in paper under cover of Form SE up to six business days before or on the date of filing of the electronic format document to which it relates; you may not file the exhibit after the filing date of the electronic document to which it relates.

* * *

* * * * *

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 13. The authority citation for part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 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, 78dd, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 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.

* * * * *

Sections 240.14a–3, 240.14a–13, 240.14b–1 and 240.14c–7 also issued under secs. 12, 14 and 17, 15 U.S.C. 781, 78n and 78g;

Sections 240.14c–1 to 240.14c–101 also issued under sec. 14, 48 Stat. 895; 15 U.S.C. 78n;

* * * * *

■ 14. Amend § 240.12d1–3 by revising paragraph (c) to read as follows:

**§ 240.12d1–3 Requirements as to certification.**

* * * * *

(c) The certification must be filed in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in § 232 of this chapter (Regulation S–T).

■ 15. Amend § 240.14a–3 by revising paragraph (c) to read as follows:

**§ 240.14a–3 Information to be furnished to security holders.**

* * * * *

(c) The report sent to security holders pursuant to this rule shall be submitted in electronic format, in accordance with the EDGAR Filer Manual, to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of solicitation material are filed with the Commission pursuant to § 240.14a–6, whichever date is later. The report is not deemed to be ''soliciting material'' or to be ''filed'' with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

* * * * *

■ 16. Amend § 240.14c–3 by revising paragraph (b) to read as follows:

**§ 240.14c–3 Annual report to be furnished security holders.**

* * * * *

(b) The report sent to security holders pursuant to this rule shall be submitted in electronic format, in accordance with the EDGAR Filer Manual, to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of the information statement are filed with the Commission pursuant to § 240.14c–5, whichever date is later. The report is not deemed to be ''filed'' with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the information statement or incorporates it in the information statement or other filed report by reference.

* * * * *

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

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

**Authority:** 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001 Pub. L. 114–94, 129 Stat. 1312 (2015), and secs. 2 and 3 Pub. L. 116–222, 134 Stat. 1063 (2020), unless otherwise noted.

Section 249.220f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 401(b), 406 and 407, Pub. L. 107–204, 116 Stat. 745, and secs. 2 and 3, Pub. L. 116–222, 134 Stat. 1063.

Section 249.240f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 406 and 407, Pub. L. 107–204, 116 Stat. 745.

* * * * *

Section 249.310 is also issued under secs. 3(a), 202, 208, 302, 406 and 407, Pub. L. 107–204, 116 Stat. 745.

* * * * *

■ 18. Amend Form 20–F (referenced in § 249.220f) by adding Item 10.J to read as follows:

**Note:** The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM 20–F**

* * * * *

**PART I**

* * * * *

Item 10. * * *

J. Annual Report to Security Holders. If a registrant is required to provide an annual report to security holders in response to the requirements of Form 6–K (§ 249.306 of this chapter), the registrant must submit the annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

* * * * *

■ 19. Amend Form 40–F (referenced in § 249.240f) by revising General Instruction B.(3) to read as follows:

**Note:** The text of Form 40–F does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM 40–F**

* * * * *

**GENERAL INSTRUCTIONS**

* * * * *

B. * * *

(3) Registrants reporting pursuant to Section 13(a) or 15(d) of the Exchange Act should file under cover of this form the annual information form required under Canadian law and the Registrant's audited annual financial statements and accompanying management's discussion and analysis. Registrants shall furnish under the cover of Form 6–K all other information material to an investment decision that a Registrant:

(i) makes or is required to make public pursuant to the law of the jurisdiction of its domicile,

(ii) filed or is required to file with a stock exchange on which its securities are traded, or

(iii) distributes or is required to distribute to its security holders.

**Note to paragraphs (1) and (3) of General Instruction B:** If General Instructions B.(1) or (3) of this Form require a registrant to furnish an annual report to security holders, the registrant shall satisfy this requirement by promptly submitting an English version of its annual report to security holders in

electronic format in accordance with the EDGAR Filer Manual.

* * * * *

■ 20. Amend Form 6–K (referenced in § 249.306) by:

■ a. On the cover page removing the text ''Indicate by check mark if the registrant is submitting the Form 6–K in paper as permitted by Regulation S–T Rule 101(b)(1):____

**Note:** Regulation S–T Rule 101(b)(1) only permits the submission in paper of a Form 6–K if submitted solely to provide an attached annual report to security holders. Indicate by check mark if the registrant is submitting the Form 6–K in paper as permitted by Regulation S–T Rule 101(b)(7):

____

**Note:** Regulation S–T Rule 101(b)(7) only permits the submission in paper of a Form 6–K if submitted to furnish a report or other document that the registrant foreign private issuer must furnish and make public under the laws of the jurisdiction in which the registrant is incorporated, domiciled or legally organized (the registrant's ''home country''), or under the rules of the home country exchange on which the registrant's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the registrant's security holders, and, if discussing a material event, has already been the subject of a Form 6–K submission or other Commission filing on EDGAR.''; and

■ b. Revising paragraph C(2) of the General Instructions;

■ c. Revising paragraph C(3) of the General Instructions; and

■ d. Adding paragraph C(7) of the General Instructions.

The revisions and additions to read as follows:

**Note:** The text of Form 6–K does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM 6–K**

**REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO RULES 13a–16 OR 15d–16 UNDER THE SECURITIES EXCHANGE ACT OF 1934**

* * * * *

**GENERAL INSTRUCTIONS**

* * * * *

C. * * *

(2) An issuer may submit a Form 6–K in paper under a hardship exemption provided by Rules 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202).

**Note to paragraph (2):** An issuer that is or will be incorporating by reference all or part of an annual or other report to security holders, or of any part of a paper Form 6–K, into an electronic filing must file the incorporated portion in electronic format as an exhibit to the filing in accordance with Rule 303(b) of Regulation S–T (17 CFR 232.303(b)).

(3) When submitting a Form 6–K in paper under a hardship exemption, an issuer must provide the appropriate legend required by either Rule 201(a)(2) or Rule 202(c) of Regulation S–T (17 CFR 232.201(a)(2) or 232.202(c)) on the cover page of the Form 6–K.

* * * * *

(7) *Annual Report to Security Holders.* If General Instruction B of this form requires an issuer to furnish an annual report to security holders, the issuer shall satisfy this requirement by promptly submitting an English version of its annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

* * * * *

■ 21. Amend Form 10–K (referenced in § 249.310) by revising paragraph (a) that follows the text ''Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act''.

**Note:** The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.;

The revision reads as follows:

(a) Except to the extent that the materials enumerated in (1) and/or (2) below are specifically incorporated into this Form by reference, every registrant which files an annual report on this Form pursuant to Section 15(d) of the Act must furnish to the Commission for its information at the time of filing its report on this form, an electronic submission in accordance with the EDGAR Filer Manual, of the following:

* * * * *

■ 22. Amend Form 11–K (referenced in § 249.311) by:

■ a. Revising General Instruction E; and

■ b. Adding paragraph 5 of Required Instructions.

The revisions and additions to read as follows:

**Note:** The text of Form 11–K does not, and this amendment will not, appear in the Code of Federal Regulations.

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

**FORM 11–K**

**FOR ANNUAL REPORTS OF EMPLOYEE STOCK PURCHASE, SAVINGS AND SIMILAR PLANS PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

* * * * *

**GENERAL INSTRUCTIONS**

* * * * *

**E. Electronic Filers**

Reports on this Form must be filed in electronic format. See Rule 101(a)(xxvi) of Regulation S–T (§ 232.101(a)(xxvi) of this chapter).

* * * * *

**REQUIRED INFORMATION**

5. Where a plan prepares its financial statements in accordance with these Items section, an Interactive Data File (§ 232.11 of this chapter) is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter).

Instruction to paragraph 5: When an Interactive Data File is submitted as provided by Rule 405(a)(4) of Regulation S–T (§ 232.405(a)(4) of this chapter), the exhibit index must include the word ''Inline'' within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

* * * * *

■ 23. Amend Form CB (referenced in § 239.800 and § 249.480) by:

■ a. Removing the line ''Filed or submitted in paper if permitted by Regulation S–T Rule 101(b)(8) [ ]'' and the corresponding Note on the cover page; and

■ b. Removing General Instruction II.A.(2) and redesignating General Instruction II.A.(3) and (4) as General Instruction II.A.(2) and (3).

By the Commission.

Dated: November 4, 2021.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2021–24523 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## DELAWARE RIVER BASIN COMMISSION

### 18 CFR Parts 410 and 440

### Importations of Water Into and Exportations of Water From the Delaware River Basin; Discharges of Wastewater From High Volume Hydraulic Fracturing and Related Activities

**AGENCY:** Delaware River Basin Commission.

**ACTION:** Notice of proposed rulemaking; public hearing.

**SUMMARY:** The Commission proposes to amend its Comprehensive Plan and *Water Code* concerning importations of water into and exportations of water from the Delaware River Basin; to amend its *Special Regulations—High Volume Hydraulic Fracturing* to prohibit the discharge of wastewater from high volume hydraulic fracturing and related activities to waters or land within the Delaware River Basin; and to incorporate key elements of the latter proposed amendments into the Commission's *Water Quality Regulations.*

**DATES:**

*Written comments:* Written comments will be accepted through 5 p.m. on February 28, 2022.

*Public hearings:* Public hearings will be held remotely *via* Zoom on the following dates at the noted times. Details about accessing the hearings are available on the Commission's website, *www.drbc.gov.*

1. December 8, 2021, 2:30 p.m. to no later than 4:30 p.m.
2. December 8, 2021, 6:30 p.m. to no later than 8:30 p.m.
3. December 15, 2021, 1 p.m. to no later than 3 p.m.
4. December 15, 2021, 4 p.m. to no later than 6 p.m.

**ADDRESSES:**

*To submit written comments:* Written comments will be accepted until 5 p.m. on February 28, 2022, through the Commission's online public comment collection system at: *http://dockets.drbc.commentinput.com.* To request an exception from use of the online system based on lack of access to the internet, please contact: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628.

*To register to speak at public hearings:* Although attendance at the hearings is not limited and requires no registration, those who wish to provide oral comment at a hearing must register in advance to do so. Registration will be through EventBrite. Links to EventBrite for each of the public hearing dates and times are posted at *www.drbc.gov.* Online registration will remain open until 5 p.m. on the day prior to the hearing date or until all available speaking slots have been filled, whichever is earlier. Each person who wishes to provide oral comment may do so at only one public hearing. Registrations will be monitored, and if capacity is not adequate to accommodate all who wish to speak, additional opportunities may be added.

See **SUPPLEMENTARY INFORMATION** for details regarding the substance of written comments.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the public hearings and submission of written comments, contact Kate Schmidt, Communications Specialist, at *kate.schmidt@drbc.gov* (preferred) or 609–883–9500, ext. 205. For information concerning the proposed amendments, contact Pamela Bush, Commission Secretary and Assistant General Counsel, at *pam.bush@drbc.gov* (preferred) or 609–477–7203.

**SUPPLEMENTARY INFORMATION:** The Delaware River Basin Commission (''DRBC'' or ''Commission'') is a regional interstate and Federal agency formed by compact legislation of four states and the United States in 1961 [1] to manage the water resources of the Delaware River Basin (the ''Basin'') without regard to political boundaries. Its members are, *ex officio,* the governors of the Basin states (Delaware, New Jersey, New York, and Pennsylvania) and the commander of the U.S. Army Corps of Engineers North Atlantic Division, who represents the United States.

### Background

By Resolution No. 91–9 on June 19, 1991, the Commissioners amended the Commission's Comprehensive Plan by the addition of policies and regulations relating to transfers of water into and out of the Basin. These provisions were later codified in the Delaware River Basin Water Code.[2] The Commission on November 30, 2017, proposed regulations that, in part, concerned inter-Basin transfers of water and wastewater associated with high volume hydraulic fracturing (''HVHF'') (''2017 draft rule'') and that addressed the treatment and discharge of wastewater generated by HVHF.[3] Concurrently with adoption of its final rule by Resolution No. 2021–01 on February 25, 2021, the concerned the exportation of water to support HVHF and the importation, treatment, and discharge of ''produced water'' and ''CWT wastewater'' as defined therein.[4] By a Resolution for the Minutes on February 25, 2021, the Commissioners directed the Executive Director to prepare and publish for public comment a set of amendments to the Comprehensive Plan and implementing regulations to update the Commission's policies and provisions concerning importation and exportation of water and wastewater from and into the Basin and ''to include such other proposed amendments . . . as [the Executive Director, in consultation with the Commissioners] deem necessary or appropriate.''

In accordance with the Commissioners' February 25, 2021, directive, the Commission is proposing amendments to its Comprehensive Plan and regulations to better provide for the planning, conservation, utilization, development, management and control of the Basin's water resources in connection with: The importation of water, including wastewater, into the Basin; the exportation of water, including wastewater, from the Basin; and the discharge of wastewater from HVHF and HVHF-related activities. The Commission proposes to amend the Water Code by clarifying the circumstances in which exportations of water, including wastewater, from the Basin and importations of water, including wastewater, into the Basin are considered by the Commission and the factors to be used in evaluating whether such proposed imports and exports of water may be approved. The proposed amendments will not apply to importations and exportations that existed prior to the effective date of any final rules, but are proposed to apply to increases in the rate or volume of existing importations and exportations. The Commission also proposes to amend its Special Regulations regarding HVHF by the addition of a finding that the discharge of wastewater from HVHF and HVHF-related activities poses significant, immediate, and long-term risks to the development, conservation, utilization, management, and

[1] United States Public Law 87–328, Approved Sept. 27, 1961, 75 Statutes at Large 688; 53 Delaware Laws, Ch. 71, Approved May 26, 1961; New Jersey Laws of 1961, Ch. 13, Approved May 1, 1961; New York Laws of 1961, Ch. 148, Approved March 17, 1961; Pennsylvania Acts of 1961, Act. No. 268, Approved July 7, 1961.

[2] Delaware River Basin Water Code (hereinafter ''Water Code'') (incorporated by reference at 18 CFR part 410), section 2.30.

[3] 83 FR 1586, Jan. 12, 2018.

[4] 83 FR 1586, pp. 1589, 1591 (defining ''produced water'' as ''any water or fluid returned to the surface through the production well as a waste product of hydraulic fracturing,'' and defining ''CWT wastewater'' as ''wastewater or effluent resulting from the treatment of produced water by a centralized waste treatment facility ('CWT')'').

preservation of the Basin's water resources, and that controlling future pollution by prohibiting such discharge is required to effectuate the Comprehensive Plan, avoid injury to the waters of the Basin as contemplated by the Comprehensive Plan and protect the public health and preserve the waters of the Basin for uses in accordance with the Comprehensive Plan. The finding is accompanied by a provision prohibiting the discharge to waters of the Basin of wastewater from HVHF and HVHF-related activities.

*Managing water quantity and quality through a basinwide Comprehensive Plan.* The Delaware River Basin Compact directs the Commission to develop and adopt, and from time to time review and revise, a Comprehensive Plan ''for the immediate and long range development and use of the water resources of the [B]asin'' to which Federal, State and local agencies and private parties are bound.[5] Through the adoption of a series of polices and regulations establishing and amending its Comprehensive Plan, the Commission over the past half-century has developed and implemented in-stream water quality standards throughout the Basin, prohibited degradation of groundwater, instituted reservoir drought operating plans, established protected areas to prevent the depletion of groundwater, and provided special protection to the non-tidal portion of the Delaware River to preserve its exceptionally high scenic, recreational, ecological and water supply values. As the agency through which the five signatory parties to the Compact—the States of Delaware, New Jersey and New York, the Commonwealth of Pennsylvania, and the United States—collectively manage the Basin's water resources on a regional basis, the Commission has taken these steps to, among other things, ensure an adequate supply of suitable quality water for domestic use, recreation, power generation, industrial activity and aquatic life, and to accommodate large out-of-Basin diversions by the City of New York and the State of New Jersey that are authorized by the 1954 decree of the U.S. Supreme Court in *New Jersey* v. *New York,* 347 U.S. 995 (the ''Decree'').

*Water Exportation.* Since June 19, 1991, the Commission's policy as articulated in the Comprehensive Plan and Water Code (incorporated by reference at 18 CFR part 410) has been to discourage the exportation of water from the Basin on grounds that the Basin's waters ''are limited in quantity and the Basin is frequently subject to drought warnings and drought declarations due to limited water supply storage and streamflow during dry periods.'' [6]

In allocating the waters of the Basin under Section 3.3 of the Compact, the Commission is constrained by limited reservoir storage, particularly during periods of low flow.[7] Droughts of varying intensity and length have impacted the Basin since the Commission was formed in October 1961.[8] The Commission has implemented drought operations thirteen times over six decades, including during seven droughts so severe the Commission declared them to be drought emergencies.[9]

The Commission's current Comprehensive Plan includes three major types of exportations of water from the Basin, many of which have also been the subject of DRBC project approvals:

- Pre-Compact out-of-Basin diversions by New York City and the State of New Jersey authorized by the Decree; and with the unanimous consent of the parties to the Decree in accordance with Section 3.3 of the Compact, modifications of such diversions;
- Out-of-Basin transfers approved on a long-term basis pursuant to Section 3.8 and Article 11 of the Compact to meet the needs of public water systems with service areas straddling or adjacent to a Basin boundary; and
- Out-of-Basin transfers approved on a temporary or emergency basis pursuant to Section 3.8 of the Compact to ensure the public health and safety of communities adjacent to or straddling a Basin boundary.

The draft amendments establish the circumstances under which proposed exportations that meet the existing threshold for review established by the Commission's Rules of Practice and Procedure may be considered for approval. Under the proposed rule, the Commission may approve an exportation of water from the Basin if the export is needed to serve a straddled or adjacent public water system; if it is required on a temporary, short-term, or emergency basis to meet public health and safety needs; or if it comprises an exportation of wastewater. The proposed amendments provide that in reviewing proposed exportations, an analysis of alternatives to the proposed exportation will be considered, along with factors that include the effects of the proposal on public health and safety and effectuation of the Comprehensive Plan. The amended rules will further the Commission's objectives of conserving, utilizing, managing, and controlling the Basin's water resources by ensuring that the uses included within the Comprehensive Plan are protected, and will preserve the diversions, compensating releases, rights, conditions, and obligations of the parties to the U.S. Supreme Court Decree of 1954 in *New Jersey* v. *New York,* 347 U.S. 995 (1954).

*Water Importation.* At the time the Commission was created in 1961, the tidal Delaware River suffered from water quality impairments that included severe hypoxia (lack of dissolved oxygen) annually from May through November, preventing the passage of fish species that migrate between marine and fresh waters to reproduce. A key step in the Estuary's restoration was the establishment of water quality uses and criteria by the Commission in 1967. Because even after treatment, wastewater typically contains oxygen-depleting substances, the Commission has for decades used wasteload allocations for carbonaceous oxygen demand to protect the uses it established, including by maintaining dissolved oxygen in the Estuary at levels sufficient to support aquatic life.[10]

The presence of persistent bioaccumulative toxic contaminants in sediment, the water column and fish tissue is a legacy of the Delaware River Estuary's nearly two centuries of industrial use. Although water quality improvements over the past fifty years have substantially increased the variety and abundance of Estuary fish, multiple species are contaminated with polychlorinated biphenyls (''PCBs''), dioxins and furans, mercury, and dieldrin at levels exceeding human health risk advisory limits for their consumption.[11] By Resolution No.

[5] Compact, *supra* note 1, sections 3.2 and 13.1.

[6] *See* Water Code section 2.30.2.

[7] *See e.g.,* Water Code section 2.30.2; U.S. Department of the Interior U.S. Geological Survey Office of the Delaware River Master, *History of the Reservoir Releases Program in the Upper Delaware River Basin,* available at: *https://webapps.usgs.gov/odrm/about/history.*

[8] Delaware River Basin Commission, *An Overview of Drought in the Delaware River Basin* (Feb. 2019), Sec. ''DRBC's Basinwide Drought Actions,'' par. 1, available at: *https://www.state.nj.us/drbc/library/documents/drought/DRBdrought-overview_feb2019.pdf.*

[9] *Id.,* at Table 1: Basinwide Drought Actions (two of the emergency actions were conditional and did not go into effect).

[10] *See* Delaware River Basin Water Code, sections 3.30.2 D.2, 3.30.3 D.2, 3.30.4 D.2, 3.30.5 D.2, 3.30.6 D.2.

[11] *See* Delaware Department of Natural Resources and Environmental Control, *Delaware Fish Consumption Advisories* (Jan. 2018), available at: *https://documents.dnrec.delaware.gov/fw/*

Continued

2000–4 the Commission in 2000 determined that allocations of the waste assimilative capacity of the Estuary were necessary in Water Quality Zones 2 through 5 to maintain stream quality objectives for acute toxicity and chronic toxicity. The Commission and its members face new challenges in the emergence of previously unknown contaminants now understood to have adverse impacts on human health and aquatic life.

Although water quality management objectives in the Delaware River Estuary have of necessity prioritized restoration, the focus in the non-tidal Delaware River has been to prevent degradation of waters that are exceptionally clean. By resolutions in 1992, 2005, and 2008, the Commission designated the entire 197-mile reach of the non-tidal main stem Delaware River from Hancock, New York, to Trenton, New Jersey, as ''Special Protection Waters,'' due to their exceptionally high scenic, recreational, ecological, and water supply values. The importance of these waters to the public is underscored by their national designation: The non-tidal main stem within and downstream of potential HVHF activity includes 147 river miles designated by Congress as parts of the National Wild and Scenic Rivers System, including 113 river miles that have also been designated as units of the National Park System.[12] New or expanded pollutant loadings to Special Protection Waters—whether from imported wastewater or wastewater generated within the Basin—are permitted only if they do not measurably change the defined, existing water quality.

For the foregoing reasons, since June 19, 1991, the Commission's policy as set forth in the Water Code and Comprehensive Plan is to discourage the importation of wastewater into the Basin on grounds that the Basin's waters ''have limited assimilative capacity and limited capacity to accept conservative substances without significant impacts.'' [13] The Commission will continue to use its authority to preclude the discharge of wastewater that would impede the restoration of water quality and aquatic life in the tidal Delaware River or that would degrade the Basin's Special Protection Waters.

The proposed rules regarding importation clarify the factors the Commission will use in evaluating proposed importations that meet the existing thresholds for review established by the Commission's Rules of Practice and Procedure. Although importations of wastewater are ''discouraged,'' they may be permitted after careful consideration to ensure that available alternatives have been evaluated, treatment is employed to ensure applicable water quality criteria are achieved, restoration efforts are not impeded, and uses incorporated in the Commission's Comprehensive Plan are protected. The amended rules will further the Commission's objectives of conserving, utilizing, managing, and controlling the Basin's water resources by ensuring continued protection of the uses included within the Comprehensive Plan.

Notably, to date, the Commission has not approved transfers into the Basin of wastewater associated with HVHF, and no applications for such transfers are under consideration. Additionally, in many instances, the Commission has conditioned its approvals of wastewater discharge projects on a requirement that no importation, treatment or discharge of HVHF wastewater may be undertaken by a docket holder without the Commission's prior review and approval. As discussed below, amendments to the Commission's Special Regulations at 18 CFR part 440—High Volume Hydraulic Fracturing are being proposed that would prohibit the discharge of HVHF wastewater to water or land within the Basin.

*Prohibition on Discharge of Wastewater from HVHF and HVHF-Related Activities.* The Commission's Comprehensive Plan and Water Code provide in part that ''[t]he quality of Basin [surface] waters, except intermittent streams, shall be maintained in a safe and satisfactory condition'' for uses that include, ''agricultural, industrial, and public water supplies after reasonable treatment, except where natural salinity precludes such uses; . . . wildlife, fish and other aquatic life; recreation; navigation; [and] controlled and regulated waste assimilation to the extent that such use is compatible with other uses.'' [14] Similarly, the Comprehensive Plan and Water Code provide that the quality of ground waters of the Basin ''shall be maintained in a safe and satisfactory condition, except where such uses are precluded by natural quality, for . . . domestic, agricultural, industrial, and public water supplies; [and] . . . a source of surface water suitable for recreation, wildlife, fish and other aquatic life.'' [15]

In its proposed and final rules prohibiting HVHF within the Basin in November 2017 and February 2021, respectively,[16] the Commission recognized that the treatment disposal of HVHF wastewater, among other activities associated with HVHF, posed risks, vulnerabilities and impacts to the Basin's water resources.[17] The peer-reviewed science discussed in detail in the Comment and Response Document adopted concurrently with the Commission's final rule (hereinafter, the ''CRD'') [18] demonstrates that for a variety of reasons, protecting public health and preserving the Basin's water resources for uses in accordance with the Comprehensive Plan require that discharges of HVHF wastewater to Basin waters or land be prohibited.

Hydraulic fracturing wastewater may contain a complex blend of constituents, including known carcinogens, neurotoxins, or endocrine disruptors, or are characterized by reproductive or developmental toxicity or adverse immune system effects.[19] As discussed

*Fisheries/Documents/2018-Delaware-Fish-Consumption-Advisory-Table.pdf;* New Jersey Department of Environmental Protection & New Jersey Department of Health, *Fish Smart, Eat Smart: A guide to Health Advisories for Eating Fish and Crabs Caught in New Jersey Waters* (Nov. 2020), available at: *https://www.nj.gov/dep/dsr/fish-advisories.pdf;* Pennsylvania Department of Environmental Protection, *Commonwealth of Pennsylvania Public Health Advisory 2021 Fish Consumption* (Feb. 2021), available at: *https://pfbc.pa.gov/fishpub/summaryad/sumconsumptionotepdf.*

[12] *See* 16 U.S.C. 1274(a)(19)–(20) (Upper Delaware Scenic and Recreational River and Delaware Water Gap National Recreation Area), 16 U.S.C. 1274(a)(165) (Lower Delaware River and Associated Tributaries). Other Basin waters included in the Wild and Scenic Rivers System and protected by state antidegradation programs include: 190 miles of the White Clay Creek and its tributaries in Delaware and Pennsylvania, 35 miles of the Maurice River and its tributaries in New Jersey, and 25 miles of the Musconetcong River, also in New Jersey. *See,* 16 U.S.C. 1274(a)(163) (White Clay Creek and its tributaries); 16 U.S.C. 1274(a)(146)–(149) & 1274(a)(151)–(153) (Maurice River and its tributaries); 16 U.S.C. 1274(a)(169) (Musconetcong River).

[13] *See* Water Code section 2.30.2 (or ''limited capacity to assimilate pollutants'' as reflected in the proposed amendments).

[14] Water Code, section 3.10.2. B.

[15] *Id.,* section 3.40.3.

[16] 83 FR 1586, Jan. 12, 2018; 86 FR 20628, Apr. 21, 2021.

[17] *See, e.g.,* DRBC Resolution No. 2021–01, p. 4, par. 4. Available at: *https://www.state.nj.us/drbc/library/documents/Res2021-01_HVHF.pdf. See generally,* Delaware River Basin Commission, *Comment and Response Document: Proposed Amendments to the Administrative Manual and Special Regulations Regarding High Volume Hydraulic Fracturing Activities; Additional Clarifying Amendments,* Feb. 25, 2021 (hereinafter, ''CRD''), at, *e.g.,* pp. E–1, 65–66 (''Synthesis'' of response to comments concerning spills); pp. 158–59 (water quality impacts from discharges of treated hydraulic fracturing wastewater). The CRD is available at: *https://www.state.nj.us/drbc/library/documents/CRD_HVHFrulemaking.pdf.*

[18] *See* CRD, *supra* note 15.

[19] CRD, *supra* note 15, pp. 131, 161, and 255 (citing E.G. Elliott, *et al., A systematic evaluation*

at length in the CRD, some of the chemicals used are not known because they are accorded protection as trade secrets.[20] The U.S. Environmental Protection Agency (hereinafter, ''EPA''), has reported that the majority of chemicals associated with hydraulic fracturing, both known and unknown, have not undergone significant toxicological assessment.[21] The impacts from those chemicals to human health and aquatic life are thus undetermined.[22] In addition to the potential pollutants in fracturing fluid, the fluid returned from an oil or natural gas well after HVHF (typically called ''produced water'' and including ''flowback water'') is mixed with water from the target formation, which contains: Salts, including chloride, bromide, sulfate sodium, magnesium, and calcium; metals, including barium, manganese, iron, and strontium; naturally-occurring organic compounds, including benzene, toluene, ethylbenzene, and xylenes; oil and grease; and radioactive materials, including radium, found in ancient sea water trapped within the oil- and gas-bearing shale formations.[23]

A report by the U.S. Geological Survey (''USGS'') observed that the salts in shale waters (which are sometimes referred to as ''total dissolved solids'' or ''TDS'') reached extreme concentrations over millions of years, and their chemical interactions with surrounding rock can mobilize radionuclides.[24] The USGS authors cite radioactivity as a key characteristic of the HVHF waste stream that potentially represents a substantial risk to water resources, aquatic ecosystems and biota, and public health, if released.[25]

Wastes associated with oil and natural gas exploration, development and production, including oil and gas drilling fluids and produced waters, are exempt from federal regulations for the management of hazardous wastes.[26] But these wastes may cause harm to public health and the environment if they are not properly managed. The CRD references multiple studies documenting adverse impacts to water resources from HVHF wastewater after treatment, whether by municipal or industrial treatment facilities.[27] Because produced water contains high TDS and dissolved inorganic constituents that most publicly owned treatment works and other municipal wastewater treatment facilities are not designed to remove, EPA in 2016 issued a final rule banning the treatment and discharge of oil and gas extraction wastewater from publicly owned treatment works (''POTWs'').[28] Privately owned treatment works that treat primarily domestic and commercial wastewater remain outside the scope of EPA's ''zero discharge'' rule.

The Commonwealth of Pennsylvania manages the risks associated with disposal of HVHF wastewater in part through a detailed statute and regulations focused on protecting water resources and public health while preserving commercial interests. Regulations adopted in 2010 pursuant to the Pennsylvania Clean Streams Law address risks associated with HVHF wastewater treatment and discharge by limiting new discharges of TDS, chlorides, barium and strontium in treated wastewater, regardless of the type of discharge—public, private, municipal or industrial.[29]

Research has demonstrated that even with specialized treatment, however, the discharge of HVHF wastewater to surface waters can adversely impact downstream waters. The Commission's CRD contains an extensive discussion of the potential risks associated with the treatment and discharge of HVHF wastewater to Basin waters from CWTs.[30] The Commission concluded that treatment of HVHF wastewater at CWTs with subsequent discharge of effluent to the waters of the Basin would present significant risks to the receiving waters.[31]

Growth in Marcellus shale gas production is anticipated,[32] and in the Marcellus production area immediately west of the Basin, recent data show increasing water use by the shale gas production industry, which may result in increasing volumes of wastewater.[33] Although additional factors may affect demand for HVHF wastewater treatment and discharge options, these shale gas production and water use trends create the potential for increased demand for CWT services in the region.[34] To protect the public health and preserve the waters of the Basin for uses in accordance with the Comprehensive Plan, the Commission thus proposes to prohibit the discharge of treated or untreated HVHF wastewater to waters or land within the Basin.

*Water Quality Regulations.* To facilitate the alignment of certain Basin state discharge permits with the Commission's proposed regulations regarding wastewater from high volume hydraulic fracturing, the Commission further proposes to amend its Water Quality Regulations, Article 4—Application of Standards. The proposed amendment would consist of a new section 4.50, captioned ''Wastewater from High Volume Hydraulic Fracturing and Related Activities,'' expressly incorporating into the Water Quality Regulations the determination and prohibition comprising § 440.4 of title 18 of the CFR, and the purpose and definitions encompassing §§ 440.1 and 440.2. Existing section 4.50 of the Water Quality Regulations and its sub-paragraphs 4.50.1 through 4.50.6 are

*of chemicals in hydraulic-fracturing fluids and wastewater for reproductive and developmental toxicity,* J. Exposure Science & Environmental Epidemiology, 27: 90–99 (2017)). *See also,* United States Environmental Protection Agency (''U.S. EPA''), *Hydraulic fracturing for oil and gas: Impacts from the hydraulic fracturing water cycle on drinking water resources in the United States* (final report) (EPA/600/R–16/236F) (2016) (hereinafter ''U.S. EPA 2016 Assessment''), p. ES–20; U.S. EPA, *Technical development document for the effluent limitations guidelines and standards for the oil and gas extraction point source category* (EPA–820–R–16–003), 2016, pp. 43–47 (Sec. 1.2).

[20] *See* CRD, *supra* note 15, pp. 259–264.

[21] *Id.,* p. 132 (citing U.S. EPA 2016 Assessment, *supra* note 17, p. ES–42–45, 9–1).

[22] U.S. EPA, *Detailed study of the centralized waste treatment point source category for facilities managing oil and gas extraction wastes.* (EPA–821–R–18–004) (2018), p. 9–36. *Available at: https://www.epa.gov/sites/default/files/2018-05/documents/cwt-study_may-2018.pdf.*

[23] CRD, *supra* note 15, pp. E–6, 71.

[24] CRD, *supra* note 15, p. 84 (citing E.L. Rowan, *et al., Radium content of oil- and gas-field produced waters in the Northern Appalachian Basin (USA): Summary and discussion of data,* U.S. Department of the Interior, U.S. Geological Survey: Scientific Investigations Report 2011–5135 (2011)).

[25] CRD, *supra* note 15, p. 86 (citing E.L. Rowan, *et al., supra* note 22) (also noting that chemically, radium behaves in a manner similar to calcium and is capable of bioaccumulation in plants and animals).

[26] *See, e.g.,* U.S. Environmental Protection Agency, Office of Solid Waste, *Exemption of Oil and Gas Exploration and Production Wastes from Federal Hazardous Waste Regulations,* EPA530–K–01–004 (2002).

[27] *See* CRD, *supra* note 15, pp. 18–19, 128–143. *See also* U.S. EPA, *infra* note 26 (regarding impacts associated with discharges from municipal wastewater treatment plants); U.S. EPA, *supra* note 20 (regarding impacts associated with discharges from the industrial wastewater treatment facilities known as ''CWTs'').

[28] U.S. EPA, *Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category,* 81 FR 41845 (Aug. 29, 2016) (preamble). *See also* 81 FR 88126 (Dec. 7, 2016) (extending deadline for compliance); CRD, *supra* note 15, pp. 18–19, 128.

[29] 25 Pa. Code section 95.10. *See also* CRD, *supra* note 15, pp. 132, 178.

[30] *See* CRD, *supra* note 15, pp. 130–143, 178. *See generally* U.S. EPA, *supra* note 20.

[31] *See* CRD, *supra* note 15, p. 138.

[32] U.S. EPA, *supra* note 20, p. 8–6.

[33] *See* CRD, *supra* note 15, p. 16 (reporting increased length of natural gas well laterals and increased use of water per foot of well fractured in the Susquehanna River Basin, which adjoins the Basin) (citing Susquehanna River Basin Commission, *Water use associated with natural gas development in the Susquehanna River Basin: An update of activities through December 2018* (Publication No. 323) (2020)).

[34] *See* U.S. EPA, *supra* note 20, pp. 8–4—8–6.

proposed to be redesignated as section 4.60 and 4.60.1 through 4.60.6.

*Incorporation by Reference.* The entirety of the Water Code, including section 2.30, and the entirety of the Water Quality Regulations, including Article 4, are incorporated by reference into the Code of Federal Regulations at 18 CFR 410.1, and each was last approved for incorporation by reference by the Office of the Federal Register (''OFR'') on December 4, 2013. In accordance with OFR's regulations concerning incorporation by reference,[35] the sections of this preamble titled ''*Water Importation,*'' ''*Water Exportation,*'' and ''*Water Quality Regulations,*'' summarize the proposed amendments to section 2.30 of the Water Code and Article 4 of the Water Quality Regulations.

The Commission further proposes: (a) To amend § 410.1(c) of title 18 of the Code of Federal Regulations by replacing the date of incorporation by reference there with respect to each of the Water Code and Water Quality Regulations (both, December 4, 2013), with the date on which the Commission adopts a final rule pursuant to this proposal; and (b) to update the Commission's mailing and website addresses.

Interested persons may obtain or inspect copies of the Water Code and the Water Quality Regulations at the Delaware River Basin Commission, 25 Cosey Road, West Trenton, New Jersey 08628–0360, 609–883–9500, or on the Commission's website, *www.drbc.gov.*

Public Process

*Substance of comments:* The Commission expressly seeks comment on the effects the proposed rules may have within the Basin on: Water availability, the control and abatement of water pollution, economic development, the conservation and protection of drinking water supplies, the conservation and protection of aquatic life, the conservation and protection of water quality in Special Protection Waters, and the protection, maintenance and improvement of water quantity and quality Basinwide. The Commission welcomes and will consider any other comments that concern the potential effects of the draft rules on the conservation, utilization, development, management and control of the water and related resources of the Basin. Comments on matters not within the scope of the proposed rules may not be considered.

Non-digitized, voluminous materials such as books, journals or collected letters and petitions will not be accepted. Digital submissions of articles and websites must be accompanied by a statement containing citations to the specific findings or conclusions the commenter wishes to reference.

*Submission of written comments.* Written comments along with any attachments should be submitted through the Commission's web-based comment system (*http://dockets.drbc.commentinput.com*) until 5 p.m. on February 28, 2022. All materials should be provided in searchable formats, preferably in .pdf searchable text. Notably, a picture scan of a document may not result in searchable text. Comments received through any method other than the designated on-line method, including *via* email, fax, postal/delivery services or hand delivery, will not be considered or included in the rulemaking record unless an express exception has been granted. Requests for exceptions from the web-based-submissions-only policy based on lack of access to the web-based comment system may be addressed to: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628.

*Public hearings.* To provide for an orderly process and to support public and community health measures, the Commission is conducting its public hearings virtually. Attendance at the hearings is not limited and requires no registration. However, to eliminate uncertainty on the part of attendees about whether they will have an opportunity to provide oral comment, those who wish to speak at a hearing must register in advance to do so, using links on the Commission's website. Registrations will be monitored, and if capacity is not adequate to accommodate all who wish to speak, additional opportunities may be added. Key elements of the procedure are as follows:

- Online registration to speak at a public hearing will remain open until 5 p.m. the day prior to each hearing.
- Each person who wishes to provide oral comment may do so at only one public hearing.
- Speaking time will be limited to approximately three minutes per speaker.
- Elected government officials and their staff will have the opportunity to identify themselves when registering to attend a hearing.
- Attendance at the public hearings is not limited and requires no advance registration.
- Written and oral comment will receive equal consideration.

The Commission appreciates the public's participation and input on this important matter.

*More Information.* Detailed and up-to-date information about the public process, including all proposed rule text, related documents and links for online registration to speak at each of the scheduled public hearings, can be found on the DRBC website, *www.drbc.gov.*

**List of Subjects**

*18 CFR Part 410*

Incorporation by reference, Water pollution control, Water resources, Water supply.

*18 CFR Part 440*

Wastewater discharge, Water pollution control, Water resources.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend title 18, chapter III of the Code of Federal Regulations as follows:

## PART 410—BASIN REGULATIONS; WATER CODE AND ADMINISTRATIVE MANUAL—PART III WATER QUALITY REGULATIONS

■ 1. The authority citation for part 410 continues to read as follows:

**Authority:** Delaware River Basin Compact, 75 Stat. 688.

■ 2. Amend § 410.1 by revising paragraph (c) to read as follows.

**§ 410.1 Basin regulations—Water Code and Administrative Manual—Part III Water Quality Regulations.**

* * * * *

(c) Work, services, activities, and facilities affecting the conservation, utilization, control, development, or management of water resources within the Delaware River Basin are subject to regulations contained within the Delaware River Basin Water Code with Amendments through [EFFECTIVE DATE OF FINAL RULE], and the Administrative Manual—Part III Water Quality Regulations with Amendments through [EFFECTIVE DATE OF FINAL RULE]. Both the Delaware River Basin Water Code and the Administrative Manual—Part III Water Quality Regulations are incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain or inspect copies at the Delaware River Basin Commission (DRBC), 25 Cosey Road, West Trenton, New Jersey 08628–0360, 609–883–9500, *www.drbc.gov,* or at the National Archives and Records

[35] *See* 1 CFR part 51. *See also, id.,* § 51.5B.

Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

## PART 440—HIGH VOLUME HYDRAULIC FRACTURING

■ 3. The authority citation for part 440 continues to read as follows:

**Authority:** Delaware River Basin Compact (75 Stat. 688).

■ 4. Amend § 440.1 by revising paragraph (d) to read as follows:

### § 440.1 Purpose, authority, and relationship to other requirements.

* * * * *

(d) *Relationship to other Commission requirements.* The provisions of this part are in addition to all applicable requirements in other Commission regulations in this chapter, dockets, permits, and determinations.

* * * * *

■ 5. Amend § 440.2 by revising the introductory text, adding in alphabetical order definitions for ''HVHF-related activities'' and ''Wastewater from high volume hydraulic fracturing'', and revising the definition of ''Water resource(s)'' to read as follows:

### § 440.2 Definitions.

For purposes of this part, the following terms and phrases have the meanings provided. Some definitions differ from those provided in regulations of one or more agencies of the Commission's member states and the Federal Government. Others are consistent with terms defined by the Delaware River Basin Compact.

* * * * *

*HVHF-related activities* are:

(1) Construction of an oil or natural gas production well that is to be stimulated using HVHF as defined in this section;

(2) Chemical mixing or storage of proppant, chemicals and other additives to make fracturing fluid; and

(3) Management of wastewater from hydraulic fracturing, including storage, disposal, treatment, or reuse in hydraulic fracturing operations or other uses.

* * * * *

*Wastewater from high volume hydraulic fracturing* is:

(1) Any wastewater, brine, sludge, chemicals, naturally occurring radioactive materials, heavy metals, or other contaminants that have been used for or generated by high volume hydraulic fracturing or HVHF-related activities;

(2) Leachate from solid wastes associated with HVHF-related activities, except if the solid wastes were lawfully disposed of in a landfill within the Basin prior to [EFFECTIVE DATE OF FINAL RULE]; and

(3) Any products, co-products, byproducts, or waste products resulting from the treatment, processing, or modification of the wastewater described in paragraphs (1) and (2) of this definition.

(4) Leachate from solid wastes associated with HVHF-related activities is excluded from this definition if the solid wastes were lawfully disposed of in a landfill within the Basin prior to [EFFECTIVE DATE OF FINAL RULE].

*Water resource(s)* is, in accordance with section 1.2(i) of the *Delaware River Basin Compact,* water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control within the Delaware River Basin.

■ 6. Add § 440.4 to read as follows:

### § 440.4 Wastewater from high volume hydraulic fracturing and related activities.

(a) *Determination.* The Commission has determined that the discharge of wastewater from high volume hydraulic fracturing and HVHF-related activities poses significant, immediate, and long-term risks to the development, conservation, utilization, management, and preservation of the Basin's water resources. Controlling future pollution by prohibiting such discharge is required to effectuate the Comprehensive Plan, avoid injury to the waters of the Basin as contemplated by the Comprehensive Plan and protect the public health and preserve the waters of the Basin for uses in accordance with the Comprehensive Plan.

(b) *Prohibition.* No person may discharge wastewater from high volume hydraulic fracturing or HVHF-related activities to waters or land within the Basin.

Dated: October 28, 2021.

**Pamela M. Bush,**

*Commission Secretary/Assistant General Counsel.*

[FR Doc. 2021–24152 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2020–0362; FRL–9238–01–R4]**

## Air Plan Approval; FL; Removal of Motor Vehicle Rules

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP), via a letter dated July 2, 2020. The revision removes rules prohibiting tampering with motor vehicle air pollution control equipment and rules concerning visible emissions from motor vehicles. EPA is proposing to remove the tampering rules and visible emissions rules from the SIP pursuant to the Clean Air Act (CAA or Act) and applicable regulations.

**DATES:** Comments must be received on or before December 22, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0362 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960.

The telephone number is (404) 562–9222. Ms. Sheckler can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

In 1988, Florida adopted the ''Clean Outdoor Air Law'' (COAL) to reduce motor vehicle emissions across the State, particularly in six urban counties (Duval, Hillsborough, Pinellas, Palm Beach, Broward, and Miami-Dade) which were designated nonattainment for the 1979 1-hour ozone national ambient air quality standards (NAAQS). The primary purpose of the law was to create a vehicle inspection and maintenance (I&M) program in the six nonattainment counties, which was embodied in Florida Statutes (F.S.) Chapter 325. Additionally, Florida drafted Section 316.2935 F.S. as the statewide component of the law to generally address motor vehicle air pollution control equipment tampering and motor vehicle visible emissions.

In February 1990, FDEP adopted Florida Administrative Code (F.A.C.) Chapters 62–243 and 62–244 to implement certain on-road prohibitions of Section 316.2935 F.S. The on-road rules gave guidance to law enforcement officers in the State on how to exercise their authority to issue noncriminal traffic citations to persons operating any motor vehicle on public roads that has been tampered with or to anyone operating a motor vehicle emitting visible emissions from the vehicle's tailpipe on public roads.

In May 1990 and January 1991, the State modified Chapter 62–243 F.A.C. to implement the portions of Section 316.2935 F.S. that prohibit licensed motor vehicle dealers from offering or displaying for sale, lease, or transfer any vehicle that has been tampered with; require such dealers to certify to each motor vehicle buyer or lessee that the vehicle has been inspected and found to be free of any visual evidence of tampering; and prohibit the operation of tampered motor vehicles on public roads. Section 316.2935(1)(a) F.S. defines tampering to include the removal or disabling of any motor vehicle air pollution control devices or systems installed by the manufacturer except to replace them with an equivalent device or system. Chapter 62–243—Tampering with Motor Vehicles Air Pollution Control Equipment contained seven rules: Rule 62–243.100—''Purpose and Scope;'' Rule 62–243.200—''Definitions;'' Rule 62–243.300—''Exemptions;'' Rule 62–243.400—''Prohibitions;'' Rule 62–243.500—''Certification;'' Rule 62–243.600—''Enforcement;'' and 62–243.700—''Penalties.'' EPA approved the amended rules into the Florida SIP in 1992. *See* 57 FR 24370 and 57 FR 24378 (June 9, 1992). In 2012, in response to a statewide effort to eliminate obsolete and unnecessary rules, Florida repealed all of the rules from Chapter 62–243 F.A.C. except for Rules 62–243.300 and 62.243.500. Florida repealed Rule 62–243.300 in 2017, but Rule 62–243.500 remains in the state rules. Florida repealed the state rules from Chapter 62–243 that repeated the substantive provisions of Section 316.2935 F.S.

The purpose of Chapter 62–244 was to prohibit the operation of any gasoline or diesel-powered vehicle on public roads that emitted visible emissions for more than five continuous seconds. The rules provided exceptions for diesel powered vehicles when the vehicle was accelerating, lugging, or decelerating. Additionally, these rules were intended to support the State's I&M program.[1] Chapter 62–244—Visible Emissions from Motor Vehicles contained six rules: Rule 62–244.100—''Purpose and Scope;'' Rule 62–244.200—''Definitions;'' Rule 62–244.300—''Exemptions;'' Rule 62–244.400—''Prohibitions;'' Rule 62–244.500—''Enforcement;'' and Rule 62–244.600—''Penalties.'' EPA approved these rules with a state-effective date of February 21, 1990 into the Florida SIP in 1992. *See* 57 FR 24370. In 1995, in response to a statewide effort to eliminate obsolete and unnecessary rules, Florida repealed Chapter 62–244 F.A.C from the state rules because they repeated the substantive provisions of Section 316.2935 F.S.

## II. What is EPA's analysis of Florida's submittal?

### *A. Chapter 62–243 F.A.C.—Tampering With Motor Vehicle Air Pollution Control Equipment*

In Florida's July 2, 2020, SIP revision, the State requests the removal of Chapter 62–243 from the Florida SIP in its entirety. As discussed above, Florida has repealed the majority of Chapter 62–243 F.A.C. in response to a statewide effort to remove obsolete and unnecessary rules. The anti-tampering measures in Chapter 62–243 prohibit the offering or displaying for sale, lease, or transfer of nonexempt motor vehicles by licensed motor vehicle dealers; require such dealers to certify to each motor vehicle buyer or lessee that the vehicle has been inspected and found to be free of any visual evidence of tampering; and prohibit the operation of tampered, nonexempt motor vehicles on public roads.

The CAA prohibits tampering with emission controls equipment installed on or in motor vehicles and motor vehicle engines at section 203(a)(3), but it does not require states to adopt anti-tampering measures or include anti-tampering measures in their SIPs. *See* 42 U.S.C. 7522(a)(3).[2] [3] Additionally, CAA section 203 prohibits the sale or lease of any new vehicle that has been tampered with. *See* 42 U.S.C. 7522(a)(4).[4] Florida voluntarily implemented anti-tampering laws to prevent tampered vehicles from being dumped into counties without an I&M program, and did not use Chapter 62–243 as a control strategy to ensure attainment or maintenance of the NAAQS or to comply with any CAA provision.[5] Given the air quality analysis in Section II.C, below, the scope of CAA's tampering provisions, the significant penalties associated with violating those provisions, and the fact that Florida did not rely on these anti-tampering rules to meet ambient air

[1] Florida terminated the I&M program on July 1, 2000 and repealed Chapter 325 F.S. in 2001. Subsequently, Florida submitted SIP revisions to remove the emissions reductions credits attributable to the program from the maintenance plan for the Tampa Area on August 29, 2000. EPA approved this SIP revision in 2002. *See* 67 FR 53314 (August 15, 2002). However, in this submission, Florida did not explicitly request removal of the I&M program from the SIP. On November 29, 2012, Florida submitted a SIP revision requesting that EPA remove the I&M rules at Chapter 62–242 from the Florida SIP, and EPA approved the removal in 2014. *See* 79 FR 573 (February 5, 2014).

[2] 42 U.S.C. 7522(a)(3)(A) states that the following is prohibited: ''for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser. . .''

[3] EPA's Tampering Policy (''Tampering Memo'') dated November 23, 2020, provides guidance on what constitutes a violation of CAA section 203(a)(3). The Tampering Memo can be found at *https://www.epa.gov/sites/default/files/2020-12/documents/epatamperingpolicy-enforcementpolicyonvehicleandenginetampering.pdf.*

[4] 42 U.S.C. 7522(a)(3)(B) states that the following is prohibited: ''for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use. . .''

[5] *See* 57 FR 24378; July 2, 2020, SIP revision at pp. 6–7.

quality standards, EPA believes that removal of Chapter 62–243 is consistent with CAA section 110(l) (*i.e.,* that removal will not interfere with any applicable requirements concerning attainment, reasonable further progress (as defined in section 171), or any other applicable requirements of the CAA).

*B. Chapter 62–244 F.A.C.—Visible Emission From Motor Vehicles*

In Florida's July 2, 2020, SIP revision, the State requests the removal of Chapter 62–244 from the Florida SIP in its entirety. Chapter 62–244 implements requirements relating to the operation of a motor vehicle on public roads in the State that emit visible emissions from the exhaust tailpipe for more than a continuous period of five seconds. Florida removed Chapter 62–244 in its entirety in 1995 in response to a statewide effort to remove obsolete and unnecessary rules.

The CAA does not require states to adopt measures addressing visible emissions from motor vehicles or include such measures in their SIPs, and Florida did not use Chapter 62–244 as a control strategy to meet any of the NAAQS.[6] Since Florida's adoption of the visible emissions rules and EPA's incorporation of those rules into the SIP approximately thirty years ago, there have been significant advances in motor vehicle technology, including on-board diagnostics (OBD) which are required in all light-duty vehicles with a 1994 onwards model year, and significant fleet turnover (*i.e.,* old vehicles being replaced with new vehicles that meet more stringent engine standards).[7] Given the current state of motor vehicle technology and fleet turnover, EPA expects that the number of smoking vehicles has reduced significantly since the inclusion of Chapter 62–244 in the SIP and that, given the air quality analysis below and the fact that Florida did not rely on these visible emissions rules to meet ambient air quality standards, removal of the visible emissions rule is consistent with CAA section 110(l). Furthermore, EPA expects that some percentage of smoking vehicles in Florida are caused by vehicle tampering, which remains illegal under the CAA as mentioned in the previous subsection.

*C. Evaluation of Relevant NAAQS Status for Motor Vehicle Emissions* [8]

There are six NAAQS established to protect human health and the environment. These NAAQS are carbon monoxide (CO), lead, nitrogen dioxide ($NO_2$), ozone, particulate matter (PM)—including $PM_{2.5}$ [9] and $PM_{10}$,[10] and sulfur dioxide ($SO_2$). Considering modern fuel types and the science and technology related to emissions from motor vehicles, EPA does not believe that there would be any changes in emissions of lead [11] or $PM_{10}$ [12] from removing vehicle tampering or visible emissions rules from the Florida SIP. Furthermore, EPA does not believe that $SO_2$ air quality would be threatened given the mandatory use of ultra-low sulfur (ULSD) diesel fuel.[13] Therefore, this section is focused on evaluating air quality for CO, $NO_2$, ozone, and $PM_{2.5}$. Florida is in attainment for all NAAQS.

1. Ozone NAAQS

On February 8, 1979 (44 FR 8202), EPA promulgated the 1-hour ozone NAAQS of 0.12 parts per million (ppm).[14] On July 18, 1997 (62 FR 38856), EPA promulgated an 8-hour ozone standard of 0.08 ppm.[15] Subsequently, on March 12, 2008, EPA revised both the primary and secondary 8-hour ozone NAAQS to a level of 0.075 ppm to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retain the same general form and averaging time as the 0.08 ppm NAAQS set in 1997 but are set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS are 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 0.075 ppm. *See* 40 CFR 50.15. On October 26, 2015 (80 FR 65292), EPA published a final rule lowering the level of the 8-hour ozone NAAQS to 0.070 ppm and retaining the same form and averaging time.

EPA designated all but three areas in Florida as attainment for the 1979 1-hour ozone NAAQS. EPA designated Jacksonville (Duval County) as a CAA section 185A (or ''transitional'') area; Tampa-St. Petersburg-Clearwater (Hillsborough and Pinellas Counties) as a marginal nonattainment area; and Miami (Broward, Miami-Dade, and Palm Counties) as a moderate nonattainment area for the 1979 1-hour ozone NAAQS. Subsequently, Florida submitted redesignation requests and maintenance plans for these areas which EPA approved in 1995. *See* 60 FR 41 (January 3, 1995), 60 FR 62748 (December 7, 1995), and 60 FR 10325 (February 24, 1995), respectively. The entire State was designated as unclassifiable/attainment and attainment/unclassifiable for the 2008 and 2015 8-hour ozone NAAQS,

[6] *See* July 2, 2020 SIP Revision at pp. 6–7.

[7] OBD is computer software that monitors the emission control and emission-related components/systems, along with certain engine components that provide vehicle operational information. For additional information regarding OBD, *see, e.g.,* On-Board Diagnostic (OBD) Regulations and Requirements: Questions and Answers, EPA 420–F–03–042 (December 2003), available at: *https://nepis.epa.gov/Exe/ZyPDF.cgi/P100LW9G.PDF?Dockey=P100LW9G.PDF.*

[8] All design values in this notice of proposed rulemaking are available on EPA's website at *https://www.epa.gov/air-trends/air-quality-design-values#report.*

[9] $PM_{2.5}$ refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as ''fine'' particles.

[10] $PM_{10}$ refers to particles with an aerodynamic diameter less than or equal to 10 micrometers, which includes $PM_{2.5}$.

[11] On November 12, 2008, EPA promulgated a revised lead NAAQS of 0.15 microgram per cubic meter ($\mu g/m^3$). *See* 73 FR 66964. On November 22, 2010, EPA designated a portion of Hillsborough County nonattainment for the 2008 lead NAAQS and designated the remainder of the State unclassifiable/attainment. *See* 75 FR 71033. Effective October 11, 2018, EPA redesignated the Hillsborough County area to attainment. *See* 83 FR 45836 (September 11, 2018). As of January 1, 1996, the sale of leaded fuel for use in on-road motor vehicles was banned. Therefore, removing the tampering and visible emissions rules from the Florida SIP will not have any impact on ambient concentrations of lead.

[12] On March 15, 1991, EPA completed initial designations for the $PM_{10}$ NAAQS. *See* 56 FR 11101. The entire state of Florida has been designated attainment for every $PM_{10}$ standard. On-road motor vehicles do not emit $PM_{10,}$ therefore, removing the tampering and visible emissions rules from the Florida SIP will not have any impact on ambient concentrations of $PM_{10}$.

[13] On June 22, 2010, EPA revised the 1-hour $SO_2$ NAAQS to 75 parts per billion (ppb) which became effective on August 23, 2010. *See* 75 FR 35520. On February 25, 2019, based on a review of the full body of currently available scientific evidence and exposure/risk information, EPA retained the existing 2010 1-hour $SO_2$ primary NAAQS. *See* 84 FR 9866. EPA designated both the Nassau County and Hillsborough County Florida areas as nonattainment effective October 4, 2013. *See* 78 FR 47191 (August 5, 2013). Effective May 19, 2019, EPA redesignated the Nassau County area to attainment. *See* 84 FR 17085 (April 24, 2019). Effective December 12, 2019, EPA redesignated the Hillsborough County area to attainment. *See* 84 FR 60927 (November 12, 2019). EPA designated the Hillsborough-Polk County area as nonattainment effective April 9, 2018. *See* 83 FR 1098 (January 9, 2018). Effective March 23, 2020, EPA redesignated the Hillsborough-Polk area to attainment. *See* 85 FR 9666 (February 20, 2020). The entire State is currently in attainment for the $SO_2$ NAAQS. In 2006, EPA finalized regulations that began to phase in a requirement to use ULSD, a diesel fuel with a maximum of 15 ppm sulfur. Since 2010, EPA's diesel standards have required that all highway diesel fuel vehicles use ULSD, and all highway diesel fuel supplied to the market is ULSD. Due to the requirements to use ULSD under the on-road diesel fuel standards, the amount of $SO_2$ emitted from on-road vehicles is already low. Furthermore, the visible emissions rules in Florida's SIP are not designed to reduce emissions of $SO_2$.

[14] The 1979 1-hour ozone NAAQS was revoked, effective June 15, 2005. *See* 69 FR 23951 (April 30, 2004).

[15] The 1997 8-hour ozone NAAQS was revoked, effective April 6, 2015. *See* 80 FR 12264 (March 6, 2015).

respectively. *See* 77 FR 30088 (May 12, 2012) and 82 FR 54232 (November 16, 2017).

Currently, Florida is designated as attainment for all ozone NAAQS, and the latest complete monitoring design values (2018–2020) show that all areas in Florida are below the NAAQS with values ranging from 0.057 ppm to 0.067 ppm.

2. $PM_{2.5}$ NAAQS

On July 18, 1997, EPA established an annual $PM_{2.5}$ NAAQS of 15.0 μg/m³, based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour $PM_{2.5}$ NAAQS of 65 μg/m³, based on a 3-year average of the 98th percentile of 24-hour concentrations.[16] *See* 62 FR 38652. On September 21, 2006, EPA retained the 1997 annual $PM_{2.5}$ NAAQS of 15.0 μg/m³ but revised the 24-hour $PM_{2.5}$ NAAQS to 35 μg/m³, based again on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144 (October 17, 2006). On December 14, 2012, EPA retained the 2006 24-hour $PM_{2.5}$ NAAQS of 35 μg/m³ but revised the annual primary $PM_{2.5}$ NAAQS to 12.0 μg/m³, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations. *See* 78 FR 3086 (January 15, 2013).

EPA published designations for the 1997 annual $PM_{2.5}$ NAAQS on January 5, 2005 (70 FR 944) and April 14, 2005 (70 FR 19844), designating all counties in the Florida as attainment for the 1997 annual $PM_{2.5}$ NAAQS. On November 13, 2009 (74 FR 58688), and on January 15, 2015 (80 FR 2206), EPA published notices designating all counties in Florida as unclassifiable/attainment for the 2006 24-hour $PM_{2.5}$ NAAQS and the 2012 annual $PM_{2.5}$ NAAQS, respectively. The latest complete monitoring design values (2019–2020) show that all areas in Florida are below the 2012 $PM_{2.5}$ annual standard, with values ranging from 6.2 μg/m³ to 9.1 μg/m³. Regarding the 24-hour $PM_{2.5}$ standard, the most recent monitoring design values (2018–2020) for the 24-hour standard range from 14 μg/m³ to 20 μg/m³, below the NAAQS.

3. $NO_2$ NAAQS

In 1971, EPA set an annual standard for $NO_2$ at a level of 53 parts per billion (ppb) which has since remained unchanged. *See* 36 FR 8186 (April 30, 1971). On February 9, 2010, EPA established a 1-hour $NO_2$ standard set at 100 ppb. *See* 75 FR 6474. The annual standard from 1971 was retained at 53 ppb based on the annual mean concentration. *Id.*

EPA designated all counties in Florida as unclassifiable/attainment for the 2010 1-hour $NO_2$ NAAQS. *See* 77 FR 9532 (February 17, 2012). Further, EPA has never designated any area in Florida as nonattainment for either $NO_2$ NAAQS. The latest complete monitoring design value (2020) shows that all areas in Florida are below the annual standard with values ranging from 3 to 13 ppb. Regarding the 1-hour $NO_2$ standard, the latest complete monitoring design value (2018–2020) shows that all areas in Florida are below the 1-hour $NO_2$ standard with values[17] ranging from 29 to 43 ppb.

4. CO NAAQS

EPA promulgated the CO NAAQS in 1971 and has retained the primary standards since that time. The primary NAAQS for CO consist of: (1) An 8-hour standard of 9 ppm, not to be exceeded more than once in a year (*i.e.,* the second highest, non-overlapping 8-hour average concentration cannot exceed the standard); and (2) a 1-hour average of 35 ppm, not to be exceeded more than once in a year.

The entire State has always been designated as unclassifiable/attainment for the CO NAAQS. The latest complete monitoring design values (2019–2020) show that all areas in Florida are below the 8-hour CO standard with values[18] ranging from 0.5 to 1.7 ppm. Regarding the 1-hour CO NAAQS, the latest complete monitoring design value (2019–2020) shows that all areas in Florida are below the 1-hour CO standard with values ranging from 0.8 to 2.3 ppm.

*D. Summary of Proposed Conclusions*

EPA proposes to find that removal of the vehicle tampering rules from the Florida SIP would satisfy CAA section 110(l) because, as discussed above, the CAA contains strong anti-tampering provisions, there are significant penalties for violating those provisions, Florida did not rely on its tampering rules to meet ambient air quality standards, and Florida's design values are below the level of the relevant NAAQS. EPA also proposes to find that the removal of the visible emissions rule would satisfy section 110(l) because, as discussed above, there have been significant improvements in vehicle engine and emissions technology since the rules were adopted by the State and incorporated into the SIP approximately thirty years ago; there has been, and continues to be, fleet turnover; the CAA's anti-tampering provisions prohibit tampering that could, in some cases, result in visible emissions; and Florida's design values are below the level of the relevant NAAQS. For these reasons, EPA proposes to find that removal of the tampering and visible emissions requirements for the Florida SIP would not interfere with any applicable CAA requirements.

## III. Incorporation by Reference

In this document, EPA is proposing to amend regulatory text that includes incorporation by reference. EPA is proposing to remove Chapter 62–243, F.A.C.—*Tampering with Motor Vehicle Air Pollution Control Equipment* and Chapter 62–244, F.A.C.—*Visible Emissions from Motor Vehicles* which are incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the State Implementation Plan generally available at the EPA Region 4 Office (please contact the person identified in the '' section of this preamble for more information).

## IV. Proposed Action

EPA is proposing to remove Chapter 62–243, F.A.C.—*Tampering with Motor Vehicle Emission Control Equipment* and Chapter 62–244, F.A.C.—*Visible Emissions from Motor Vehicles* from the Florida SIP. EPA is proposing to approve the removal of these rules from the SIP because removing them is consistent with the CAA and applicable regulations.

## 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. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Does not impose an information collection burden under the provisions

[16] The 1997 annual $PM_{2.5}$ NAAQS was revoked for areas designated as attainment, effective October 24, 2016. *See* 81 FR 58010 (August 24, 2016).

[17] The 1-hour design value is evaluated over a three-year period. Specifically, the design value is based on the three-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations.

[18] The design value is evaluated over a two-year period. Specifically, the design value is the higher of each year's annual second maximum, non-overlapping 8-hour average. The design value listed for each area is the highest among monitors with valid design values.

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).

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 rulemaking does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

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

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

Dated: November 8, 2021.

**John Blevins,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2021–24943 Filed 11–19–21; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 600, 648, 660, and 679

**[Docket No. 211110–0228]**

**RIN 0648–BJ33**

## Establish National Minimum Insurance Standard for National Marine Fisheries Service Programs That Permit or Approve Observer Providers

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS is proposing to establish a uniform, nationally consistent minimum insurance standard that would apply in regional regulatory programs that authorize an observer provider to deploy a person in any mandatory or voluntary observer program and that specify responsibilities of authorized providers. NMFS has concluded that this action is necessary to clarify the types of insurance that are appropriate to address the financial risks that observer coverage presents in any federally managed fishery that is subject to observer coverage. The proposed standard would establish a nationally consistent suite of insurance coverages that an observer provider seeking authorization, or that has been authorized, must have to mitigate the financial risks associated with providing observer services; specifically observer deployments to fishing vessels or shoreside locations such as processing facilities, and those that arise with training personnel for these deployments. Through compliance with this minimum standard, observer providers would be properly insured, thereby mitigating the financial risks that fishing vessels, first receivers, and shoreside processors have when complying with observer coverage requirements. This proposed rule would also revise regional observer program regulations to reference the newly established national minimum insurance standard, but existing regional observer program regulatory procedures that specify how an observer provider demonstrates compliance with insurance requirements would not be modified.

**DATES:** Interested persons are invited to submit comments on or before January 21, 2022.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number *NOAA–NMFS–2019–0142* by either of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter *NOAA–NMFS–2019–0142* in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to Dennis Hansford, 1315 East West Highway, Room 12506, Silver Spring, MD 20910.

*Fax:* (301) 713–4137; Attn: Dennis Hansford.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Dennis Hansford, 301–427–8136 or *dennis.hansford@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.,* establishes a national program for conservation and management of fishery resources within the United States Exclusive Economic Zone (EEZ). *See* id. 1801(a)(6), 1811(a). NMFS, acting under authority delegated from the Secretary of Commerce, is responsible for managing fisheries under the MSA, in conjunction with eight regional fishery management councils (Councils) established under the Act. *See* id. 1852(a). Each Council has authority to develop fishery management plans (FMPs) for fisheries in a specific geographical area and to deem proposed regulations that are necessary for plan implementation. *See* id. 1852(a), (c).

Collection of information on fishing and fish processing, such as type and quantity of fishing gear used, catch in numbers of fish or weight thereof, fishing locations, and biological

information, are critical to effective fishery management. *See* id. 1853(a)(5). To obtain this information, the MSA authorizes, among other things, that an FMP may require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery. *See* id. 1853(b)(8). The MSA defines the term ''observer'' as any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act. *See* id. 1802(31). This definition would thus cover persons referred to in FMPs and regulations as ''observers'' as well as ''catch-monitors'' or ''at-sea monitors.''

In 2018, 54 fisheries subject to management under an FMP were monitored by observer programs. To carry out required observer coverage, NMFS administers 14 observer programs (referred to as NMFS Regional Observer Programs or NMFS Observer Programs) that operate in the agency's five regions. These programs train and deploy observers, establish information collection protocols, establish risk mitigations, and debrief observers following deployment to provide quality control on information that observers collect. While observers most frequently are deployed under the MSA to collect information on vessels that are catching, taking, or harvesting fish or attempting to do so, observers also are deployed to motherships, first receivers, and shoreside processing facilities. NMFS' regional observer programs deploy catch-monitors and at-sea monitors to collect vessel catch or bycatch information and to ensure accurate catch accounting, reduce uncertainty of bycatch estimates, provide information for fishery assessments, or address other fishery information purposes. In this proposed rule, the term ''observer'' refers to a person who is deployed as an observer, a catch or at-sea monitor on a fishing vessel or mothership, or as an observer deployed to a shoreside first receiver location or processing facility. Also, in the preamble of this proposed rule, NMFS refers to a company that provides observer or catch monitor or at-sea monitor services as an ''observer provider.''

At present, all at-sea and shoreside observer deployments for NMFS observer programs are staffed by observer providers. These companies provide observer staffing support under two distinct models: (1) Direct service, where the NMFS observer program contracts with an observer provider and oversees the provider's services based on the terms of the contract; and (2) industry-funded service, where the observer provider provides services directly to a vessel or a fleet of vessels, and a NMFS regional observer program oversees the provision of those services based on requirements set forth in NMFS regulations.

In the North Pacific and most West Coast programs, an observer provider must be permitted under the programs' regulations and satisfy other responsibilities specified in regulations in order to provide services in either the direct contract model or industry-funded model. The permitting and regulatory responsibilities for the North Pacific Observer Program are codified at 50 CFR 679.52, while those for West Coast programs are codified at 50 CFR 660.16 (Groundfish observer program), 50 CFR 660.17 (Catch monitor program), 50 CFR 660.18 (Observer and catch monitor provider permits and endorsements), 50 CFR 660.140 (Shorebased Individual Fishing Quota (IFQ) Program), 50 CFR 660.150 (Mothership Cooperative Program), and 50 CFR 660.160 (Catcher Processor Cooperative Program).

In the Northeast/Mid-Atlantic region an observer provider must be approved to provide services in the At-sea sampler/observer coverage (formally entitled Monitoring coverage) codified at 50 CFR 648.11(h) or at-sea monitoring services in the Northeast Multispecies sector program codified at 50 CFR 648.87(b)(4).

The Southeast, Southwest, and Pacific Islands programs use only the direct contract model, and do not have regulations to authorize a company to deploy observers in their programs through an approval or permit process. Nor do these programs have regulations that specify observer provider responsibilities. Further information about NMFS' regional observer programs is available at *https://www.fisheries.noaa.gov/topic/fishery-observers.*

**Observer Coverage and Financial Risks**

The 2017 Bureau of Labor Statistics, Census of Fatal Occupational Injuries ranks commercial fishing as one of the most dangerous occupations. Because most observers are deployed to fishing vessels or motherships, observers' risk of occupational injury is on par with that of commercial fishermen. All observer deployments, whether at-sea or shoreside, involve exposure to natural elements, physical labor, and proximity to mechanical equipment. Given the work environment in which observers are deployed and the duties they perform, observer coverage presents heightened financial risks for observer employers and the fishing vessels and shoreside processors that are subject to observer coverage. Additionally, observer training for deployments occurs in the same environment and involves simulation of the same duties with the same equipment as an actual deployment. Thus, the financial risks presented in training observers for deployments are the same as those presented by actual deployments.

Following is a summary of the financial risks presented by observer coverage for observers; owners of vessels, first receivers, and shoreside processing facilities subject to coverage; and observer providers.

1. Observers incur risks associated with occupational injury resulting in inability to work.

2. Vessel owners, first receivers, and shoreside processors incur risks from observer claims for compensation for incidents arising out of deployment, *e.g.,* occupational injury.

3. Observer employers incur risks from observer compensation claims for occupational injury, and from vessel/shoreside processor owner claims for damages resulting from observer negligence.

Private insurance coverages and state workers' compensation programs are traditional mechanisms to address the financial risks that observer deployments present. However, the nuances of maritime law, combined with the unique role that observers have in monitoring fishing activities, have complicated efforts to address the financial risks of observer deployment, whether through private insurance or statutory compensation programs. Since 1994, Councils and NMFS have taken various actions to address insurance issues for observer providers. In regions that do not have regulatory requirements, insurance requirements are included as part of the contracts between NMFS and the observer providers for observer coverage. These insurance requirements—whether based in regulations or contracts—differ across regions. At present, the types of insurance policies that observer providers are required to have, either by regulation or by contract, include the following:

- Maritime liability to cover seamen's claims under the Merchant Marine Act (Jones Act) and General Maritime Law;
- U.S. Longshore and Harbor Workers' Compensation Act;
- State Workers' Compensation;
- Contractual General Liability;
- Marine General Liability;
- Commercial General Liability;
- Marine Employers Liability; and

- Excess or Umbrella Coverage.

Contract-based insurance requirements vary but generally consist of Marine General Liability, Marine Employers Liability, and State Workers' Compensation policies.

Regulatory-based insurance requirements currently exist for observer providers that are permitted under the North Pacific Observer Program (50 CFR 679.52(b)(11)(vi)), the West Coast Catch Monitor Program (50 CFR 660.17(f)(1)(vii)(B)), the West Coast Shoreside IFQ Program (50 CFR 660.140(h)(5)(xi)(C)), and the West Coast Mothership Cooperative Program (50 CFR 660.150(j)(4)(xi)(B)(*3*)). In each of these programs, a company permitted to deploy observers must annually provide copies of certificates of insurance that name the applicable program as the certificate holder and that verify that the company has the insurance specified in the applicable regulation.

The Northeast at-sea sampler/observer coverage program insurance requirements at 50 CFR 648.11(h)(3)(vii) are included as elements of an approved program provider application. In other words, an observer provider must demonstrate evidence that it holds the insurance specified in the regulation as part of its application to become an approved provider. Likewise, as part of an application to be an approved services provider in the Northeast Multispecies sector at-sea monitoring program, a company must demonstrate that it holds insurance that NMFS deems adequate (see 50 CFR 648.87(b)(4)(i)(G)).

In addition, Congress addressed compensation for observer occupational risks through the 1996 Sustainable Fisheries Act (SFA). Public Law 104–297 (Oct. 11, 1996). That statute amended the MSA to deem observers to be Federal employees for purposes of Federal Employees' Compensation Act (FECA) while deployed on a vessel under the MSA or the Marine Mammal Protection Act (16 U.S.C. 1881b(c)). The extension of FECA coverage to observers deployed at-sea filled a gap in coverage for observer occupational injuries that occur at-sea.

**NMFS Reevaluation of Observer Provider Insurance Requirements**

Beginning in 2014, NMFS initiated a reevaluation of regional observer provider insurance requirements. This effort was prompted by a letter from Alaskan Observers, Inc. (AOI) to the North Pacific Fishery Management Council (NPFMC). In this letter, AOI provided information supporting its position that some of the observer provider insurance requirements under the North Pacific Observer Program are excessive or inapplicable, and that there are inconsistent insurance requirements among regional observer programs. To address these issues, AOI proposed a series of amendments to the North Pacific Observer Program regulations. In a 2015 letter to the NPFMC Executive Director (2015 NPFMC Letter), NMFS agreed with AOI's position that certain insurance requirements under the North Pacific Observer Program are unnecessary; specifically, coverage for claims under the Merchant Marine Act of 1920 (also known as the Jones Act), General Maritime Law (GML), and the U.S. Longshore and Harbor Workers Compensation Act (LHWCA). To make a claim under the Jones Act, and certain claims under GML, a person must have status as a ''seaman''.[1] Courts in a number of jurisdictions have held that observers do not qualify as seamen and therefore have dismissed Jones Act claims filed by observers and those filed under GML that require such status. In the case of the LHWCA, a person must be within the scope of an employee for purposes of the LHWCA, which generally covers longshore workers, ship-repairers, harbor construction workers and other traditional maritime labor performed shoreside. Thus, by definition, the LHWCA does not apply to observers when they are deployed at-sea.

As part of NMFS' response to the NPFMC, it noted that the NPFMC could consider revising the North Pacific Observer Program regulations to require a Marine General Liability policy and other forms of insurance that may better address certain financial risks that observer companies have with their operations. Subsequent to issuing the 2015 NPFMC Letter, NMFS decided to reevaluate observer provider insurance requirements across all regional observer programs, rather than focus solely on revisions to the North Pacific Observer Program regulations. This expanded, national effort made sense because the Jones Act, GML, and LHWCA requirements deemed unnecessary in that program also apply in the West Coast programs. In addition, a broader national evaluation would enable NMFS to address the lack of consistency on insurance requirements among regional observer programs. In 2016, NMFS held an Observer Provider Insurance Workshop to discuss the efficiency of observer provider insurance requirements and compensation for observer occupational injuries. This workshop was attended by insurance experts, observer providers, observers, and representatives from other Federal agencies. Subsequent to the workshop, NMFS published an Observer Provider Insurance Workshop Technical Report (Tech Report), available at *http://spo.nmfs.noaa.gov/tech-memos,* which summarized the Workshop's proceedings and identified actions that NMFS could take to reform observer provider insurance requirements and facilitate compensation for observer occupational injuries. As detailed in the Tech Report and the 2015 NPFMC Letter, insurance coverages that observer providers are required to have for claims under the Jones Act and GML are inapplicable to observers as they lack seamen status or, in the case of the LHWCA, the coverage requirement is overly broad as it does not apply to observers who are deployed at-sea.

In addition, NMFS has learned that, while FECA does provide coverage for observer at-sea injuries, the compensation formula under FECA does not take into consideration overtime pay. Observers typically work 12–16 hour shifts to correspond with fishing vessel crew shifts, so they often do not receive full compensation for occupational injury claims under FECA.

NMFS' findings based on its national reevaluation of regional observer program insurance requirements are illustrated in the following tables.

TABLE 1—APPLICABILITY OF REMEDIAL AUTHORITIES TO OBSERVERS

| Location of observer | Jones Act seamen's claims | GML seamen's claims | LHWCA | FECA | State workers' compensation |
|---|---|---|---|---|---|
| On Land | Not applicable | Not Applicable | Applicable | Not Applicable | Applicable. |

[1] To qualify for seaman status, a person must (1) have a more or less permanent connection with (2) a vessel in navigation and (3) the capacity in which the person is employed or the duties which he or she performs must contribute to the function of the vessel, the accomplishment of its mission or its operation or welfare in terms of its maintenance during its movement or during anchorage for its future trips.

TABLE 1—APPLICABILITY OF REMEDIAL AUTHORITIES TO OBSERVERS—Continued

| Location of observer | Jones Act seamen's claims | GML seamen's claims | LHWCA | FECA | State workers' compensation |
|---|---|---|---|---|---|
| At-Sea | Not Applicable | Not Applicable | Not Applicable | Applicable per MSA 403(c). | Applicable, but may be limited to injuries sustained within state jurisdiction. |

TABLE 2—COMPARISON OF REGIONAL OBSERVER PROGRAM INSURANCE REQUIREMENTS

| Program | Jones Act/GML seamen's claims coverage | LHWCA | State Worker's Compensation (WC) | Marine Employer's Liability (MEL) | Commercial General Liability (CGL) |
|---|---|---|---|---|---|
| North Pacific | Required $1 million minimum coverage. | Required $1 million minimum coverage. | Must meet requirements within state of operation. | Not required | Required—no minimum established. |
| West Coast | Not required | Required $1 million minimum coverage. | Must meet requirements within state of operation. | Not required | Required—no minimum established. |
| Northeast | Not required | Not required | Required—$5 million combined minimum for MEL and WC. | Required—$5 million combined minimum for MEL and WC. | Not required. |

To address these issues, the Tech Report recommended that NMFS explore replacing the divergent regional insurance requirements with a consistent, nationally applicable minimum insurance standard. Considering the highly technical nature of maritime insurance and insurance markets in general, the Tech Report recommended that NMFS first gather more information on the types of insurance and minimum dollar coverage amounts for the financial risks that observer coverage presents. To do so, NMFS published a Request for Information (RFI) on National Reform of Regional Observer Provider Insurance Requirements (83 FR 32829, July 16, 2018). In this RFI, NMFS asked observer providers, maritime insurance experts, observers, and the public at large for information on the types of insurance and associated minimum dollar amounts that would be appropriate to address observer coverage financial risks across all regional programs and in the different contexts in which observers are deployed, *i.e.,* at-sea and shoreside.

## Minimum Insurance Standard for Observer Providers

NMFS proposes requiring a specific suite of insurance policies, the elements of which are described below. The proposed standard is based on an intensive, multiyear effort to identify to identify policies and associated coverage amounts that would best address the financial risks of observer provider operations. Specifically, to develop the proposed minimum insurance standard, NMFS relied on the analysis and conclusions set forth in the 2015 NPFMC Letter, and public input that NMFS obtained through the 2016 Workshop and the 2018 RFI. Additionally, to gain further insight on the fishing industry and observer providers, NMFS coordinated with the regional FMCs in the North Pacific, West Coast, and New England and conducted lengthy informal phone interviews with each observer provider that operates an industry-funded program in those regions. NMFS then reached out to insurance brokers who offer specialized products for maritime employers, including observer providers. Through these extensive outreach efforts, and its own internal research and analysis, NMFS identified only one suite of insurance policies that would address the financial risks of observer provider operations. NMFS does not believe there is any other information available upon which it could reach a different conclusion.

NMFS specifically notes that the insurance standard reflects two points that it made in the 2015 NPFMC Letter. First, this standard does not include coverages for seamen's claims under the Jones Act and those made under GML because observers do not have seamen's status under those authorities. Second, the standard clarifies that the LHWCA applies to observers only when they perform duties shoreside because that authority applies only to shoreside incidents. Based on input from maritime insurance experts, the requirement to obtain LHWCA coverage would apply only in those jurisdictions that require it.

NMFS believes that this suite of insurance policy coverages and associated coverage amounts would set a nationally consistent minimum level of insurance that is appropriate to address the financial risks that observer providers have in providing observer services. NMFS believes this suite of insurance policy coverages would help to mitigate the financial risks that observer deployments present for fishing vessels, first receivers, and shoreside processors that are subject to coverage. Additionally, this proposed minimum insurance standard would provide observers who are injured during their period of employment as an observer with appropriate compensation safeguards.

## Elements of Proposed Minimum Insurance Standard

### *Marine General Liability (MGL) Policy at $1 Million for Each Occurrence*

This policy would cover an observer provider for bodily injury and property damage liability caused by their observers' conduct while deployed. By ensuring that an observer provider is covered for liability risks arising from the deployment of its observers, an MGL policy would mitigate financial risks for vessel owners and shoreside processors that are subject to observer monitoring. Based on input from marine insurance experts obtained through the RFI, NMFS found that an MGL policy would provide coverage for a range of marine liability exposures and thus is preferable to a CGL policy presently required under the North Pacific regulations and the West Coast regulations. NMFS proposes coverage at $1 million per occurrence, as recommended by input from marine insurance experts.

In addition, unlike a CGL policy, an MGL policy can be enhanced with an endorsement that extends protection to vessel or shoreside processor owners from legal actions filed by an observer. That endorsement, however, is discretionary and not required as part of the proposed minimum insurance standard. NMFS believes the risks of observer-initiated legal actions against parties other than their employer are low, and any risks of such actions should be addressed through a Marine Employer's Liability policy, discussed below. Nonetheless, NMFS specifically requests comment on whether an MGL

endorsement for legal actions brought against a vessel owner or shoreside processor should be an element of the minimum insurance standard.

*Marine Employer's Liability (MEL) Policy With a Death on the High Seas Act Endorsement at $1 Million for Each Occurrence*

An MEL policy is appropriate for observer providers to cover certain claims that an observer can make for incidents that occur at-sea. These claims include General Maritime Law (GML) remedies of Unseaworthiness, Wrongful Death, Transportation, Wages, Maintenance and Cure, and claims under the Death on the High Seas Act. An MEL policy would also cover a seaman's negligence lawsuit filed by an observer under the Jones Act. As explained above, NMFS 2015 NPFMC Letter reflected the consensus view among Federal courts that observers are not seaman for purposes of the Jones Act. Nonetheless, this does not preclude an observer from filing a Jones Act claim. An MEL policy would cover an observer provider's costs defending against a Jones Act claim, and a vessel owner's defense costs if named as a party to the Jones Act action.

NMFS proposes that an MEL policy provide coverage at $1 million per occurrence. This amount is based on recommended input from marine insurance experts obtained through the 2018 RFI. Because an MEL policy covers claims for at-sea incidents, the proposed minimum standard provides that the MEL policy be required only for approved or permitted observer providers that deploy observers at-sea.

*State Workers' Compensation Policy*

A state workers' compensation policy would cover injuries that an observer sustains while deployed shoreside. The proposed minimum insurance standard would include this policy as required by the state(s) in which a company deploys observers.

*U.S. Longshore and Harbor Workers' Compensation Act (LHWCA) Coverage at Statutory Limits*

Coverage for LHWCA claims would provide insurance for injuries that an observer sustains while deployed shoreside. While the LHWCA does not apply to observers when they are at-sea, claims under the LHWCA for injuries sustained shoreside have been paid in some jurisdictions. The LHWCA compensation formula yields better benefits for observers than coverage that is available under state workers' compensation. Thus, it is important to include LHWCA coverage in the insurance standard, given that observers deployed as dockside monitors or to shoreside facilities perform all of their duties shoreside. In addition, observers deployed at-sea begin their deployments by traveling to the point of embarkation on land and perform some duties shoreside prior to embarking.

The proposed minimum insurance standard includes LHWCA coverage as a stand-alone policy, or as an endorsement to a company's state workers' compensation policy. Under the proposed minimum standard, either a stand-alone policy or a policy endorsement for LHWCA coverage would be required only if LHWCA coverage is required in a state where the company deploys observers. If required under state law, NMFS proposes that the LHWCA policy or policy endorsement provide coverage at the LHWCA's claim limits.

*Excess or Umbrella Coverage Over the MGL Policy or MEL Policy Limits of Not Less Than $2 Million*

To insure against events that may exceed the single event limits under an MGL policy or an MEL policy, NMFS has included in the minimum standard excess or umbrella coverage at not less than $2 million.

**Scope of Coverage**

The primary purpose of all elements of the proposed minimum insurance standard is to address the specific financial risks presented by the full scope of an observer's employment to include deployment, which includes travel to the vessel or facility to be observed, and training for deployments. Therefore, under the proposed minimum standard, insurance must extend to observer injury, liability, and accidental death during their period of employment, to include training.

**Proposed Action**

NMFS proposes that this suite of required insurance policy coverage and associated coverage amounts be codified at 50 CFR 600.678 as a minimum national standard for NMFS regional observer programs that permit or otherwise approve an observer provider to deploy a person in any mandatory or voluntary observer program and that specify authorized provider responsibilities. NMFS further proposes that the current insurance requirements for observer providers specified in the following regional regulations be removed and replaced with a reference to the proposed minimum insurance standard (50 CFR 600.678):

- North Pacific
  - North Pacific Observer Program, 50 CFR 679.52(b)(11)(vi);
- West Coast
  - West Coast Catch Monitor Program, 50 CFR 660.17(f)(1)(vii)(B);
  - West Coast Shore Side IFQ Program, 50 CFR 660.140(h)(5)(xi)(C);
  - West Coast Mothership Cooperative Program, 50 CFR 660.150(j)(4)(xi)(B)(*3*);
- Northeast
  - Northeast at-sea sampler/observer coverage program, 50 CFR 648.11(h)(3)(vii); and
  - Northeast Multispecies sector at-sea monitoring program, 50 CFR 648.87(b)(4)(i)(G).

TABLE 3—REGIONAL PROGRAM INSURANCE REQUIREMENTS THAT WOULD RESULT FROM THE PROPOSED ACTION

| Program | Jones Act/ GML seamen's clams coverage | LHWCA | State Worker's Compensation Coverage (WC) | Commercial General Liability (CGL) | Marine General Liability (MGL) | Marine Employer's Liability (MEL) | Excess or Umbrella Coverage |
|---|---|---|---|---|---|---|---|
| North Pacific Current. | Required $1 million coverage. | Required $1 million coverage. | Must meet requirements within state of operation. | Required—no minimum established. | Not required ..... | Not required ..... | Not required. |
| North Pacific Proposed Rule. | Not required. | $1 million per occurrence coverage if required under applicable state law. | No change ..... | Not required ..... | Required $1 million per occurrence. | Required $1 million per occurrence. | Required $2 million. |
| West Coast Current. | Not required. | Required $1 million coverage. | Must meet requirements within state of operation. | Required—no minimum coverage established. | Not required ..... | Not required ..... | Not required. |

TABLE 3—REGIONAL PROGRAM INSURANCE REQUIREMENTS THAT WOULD RESULT FROM THE PROPOSED ACTION—Continued

| Program | Jones Act/ GML seamen's clams coverage | LHWCA | State Worker's Compensation Coverage (WC) | Commercial General Liability (CGL) | Marine General Liability (MGL) | Marine Employer's Liability (MEL) | Excess or Umbrella Coverage |
|---|---|---|---|---|---|---|---|
| West Coast Proposed rule. | No change. | $1 million per occurrence coverage if required under applicable state law. | No change ..... | Not required ..... | Required $1 million per occurrence. | Required $1 million per occurrence. | Required $2 million. |
| Northeast Current. | Not required. | Not required ..... | Required $5 million combined minimum coverage for MEL and WC. | Not required ..... | Not required ..... | Required $5 million combined minimum coverage for MEL and WC. | Not required. |
| Northeast Proposed rule. | No change. | $1 million per occurrence coverage if required under applicable state law. | Must meet requirements within state of operation. | No change ..... | Required $1 million per occurrence. | Required $1 million per occurrence. | Required $2 million. |

Each of these regional regulatory programs already include procedures to monitor and confirm observer provider compliance with current insurance requirements. This action would not change these procedures, and they would apply to monitor and confirm observer provider compliance with the proposed minimum standard. Compliance with a minimum standard that is made final through a rulemaking would be required during the next insurance certification for the relevant program, or six months after promulgation of the final rule, whichever is later. We expect that this will provide sufficient time for providers to work with their insurance broker on getting the appropriate coverages.

The current regulations for the West Coast Catcher Processor Program (50 CFR 660.160) are unclear on whether they include insurance requirements for permitted observer providers. NMFS takes this opportunity clarify that those regulations do include insurance requirements. Therefore, as with other programs that have insurance requirements, this proposed rule would add a reference to the minimum insurance standard to the regulatory provisions regarding responsibilities for permitted observer providers that deploy observers in this program and procedures for demonstrating compliance with those standard. It would also require that an observer provider that is permitted to deploy observers in the West Coast Catcher Processor Program would demonstrate compliance with the minimum insurance standard by submitting copies of ''certificates of insurance,'' which name the Northwest Fisheries Science Center Observer Program manager as the ''certificate holder,'' to the Observer Program Office by February 1 of each year. In addition, these certificates of insurance must verify all coverage provisions specified in the national minimum insurance standard regulations, and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled. This procedure for demonstrating compliance with insurance requirements is the same as that which applies in other West Coast observer programs that currently specify insurance requirements for permitted observer providers and this proposed rule clarifies that it also applies in the West Coast Catcher Processor Program.

The proposed minimum national insurance standard would promote effective operation of regional observer programs by ensuring that observer providers have a consistent suite of insurance policy coverages that properly addresses the financial risks of their operations, regardless of the fishery observed or the region in which the provider operates. For these reasons, NMFS has concluded that this action is necessary to carry out FMP monitoring requirements performed by observers, and, as such, is authorized under MSA 305(d), 16 U.S.C. 1855(d).

As stated above, the Southeast, Southwest, and Pacific Islands observer programs are currently serviced only under the direct contract model and do not have regulations for authorizing a company to deploy observers in their programs, or regulations that specify observer provider responsibilities. For these programs, NMFS intends to require the national minimum insurance standard (50 CFR 600.678), as finalized, as a condition of direct contracts for observer provider services. This would be carried out through the National Oceanic and Atmospheric Administration's, Acquisitions and Grants Office Policy Manual and not as a separate rulemaking.

Given the technical nature of insurance policies that are applicable to observer programs, NMFS seeks detailed public comments on whether each type of insurance required in the proposed minimum national insurance standard, and associated policy coverage amounts, adequately addresses observer deployment risks for vessels, observer providers, and observers. NMFS emphasizes that, in proposing minimum insurance standard, NMFS is establishing a floor, not a ceiling, for the appropriate insurance policy types and levels of associated insurance policy coverage amounts to address the financial risks of observer deployment. This proposed rule would not prevent an observer provider from choosing to have insurance or coverage amounts that exceed the proposed minimum insurance standard. Nor would this proposed rule preclude a region from initiating a separate and distinct rulemaking that requires insurance types or coverage amounts beyond that which is provided under the proposed minimum standard in this proposed rule.

**Private Insurance Options To Address Gap in FECA Coverage**

NMFS takes this opportunity to address other information obtained through the 2018 RFI that it considered when developing the proposed minimum insurance standard. In the 2018 RFI, NMFS presented a series of questions about FECA coverage that applies to observers when deployed at-sea under the MSA. Information obtained through the 2018 RFI showed that there is a gap in FECA coverage; specifically FECA wage-loss benefits do not include consideration of overtime pay. One observer provider reported that they were able to address that gap by supplementing their MEL policy to provide their observers with additional

benefits. This form of an MEL policy, however, is customized to the operations of that provider and is not a policy that could form the basis of a policy that all providers must have. Therefore, NMFS decided not to require this form of an MEL policy in the proposed national insurance standard.

However, recognizing the implications of the gaps in FECA coverage for observers, NMFS encourages observer providers to consider obtaining this form of an MEL policy or a separate insurance policy that would provide observers with compensation that is not provided under FECA.

**Classification**

NMFS issues this proposed rule pursuant to Magnuson-Stevens Act (MSA) section 305(d), which provides the Secretary of Commerce with general responsibility to carry out any FMP or FMP amendment, and to promulgate regulations as may be necessary to discharge such responsibility (16 U.S.C. 1855(d)). The NMFS Assistant Administrator has determined that this proposed rule is consistent with the MSA and other applicable laws, subject to further consideration after public comment.

*NEPA Determination*

NOAA's Policy and Procedures for Compliance with the National Environmental Policy Act (NEPA) and Related Authorities (NOAA Administrative Order 216–6A and Companion Manual for NAO 216–6A) establishes that all NOAA major Federal actions be reviewed with respect to environmental consequences on the human environment. NOAA Administrative Order 216–6A and Companion Manual for NAO 216–6A were used to examine this proposed rule for its potential to impact the quality of the human environment and it concluded that it would not have a significant adverse effect, individually or cumulatively, on the human environment and does not involve any extraordinary circumstances listed in the Companion Manual for NAO 216–6A. Further, NMFS determined that this proposed rule may appropriately be categorically excluded from the requirement to prepare either an environmental assessment or environmental impact statement in accordance with the categorical exclusion described in the Companion Manual for NAO 216–6A, G7, which applies to preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis.

*Executive Order 12866*

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

Regional regulatory programs that authorize an observer provider to deploy a person in any mandatory or voluntary observer program and that specify responsibilities of authorized providers already include insurance requirements. Thus, to operate in these programs, observer providers already must demonstrate that they have the insurance specified in the applicable regulations.

Due to the nuances of maritime law and the unique nature of observer deployments, regions have adopted differing insurance requirements that are in some cases overly burdensome and inefficient. This action would provide a national standard that clarifies the types and amounts of insurance and associated coverage amounts that best address the financial risks of observer provider operations regardless of the fishery or region in which an observer provider operates. In some cases, compliance with the proposed national insurance standard would require observer providers to have insurance that is different from what they are required to have under current regulations. While this proposed action would change the suite of insurance that observer providers are required to have, it does not make substantive increases to the insurance that is required in current regional programs. In fact, the proposed action makes clarifications that would result in observer providers not being required to have coverages for seaman's claims under the Jones Act and General Maritime Law.

For these reasons, we do not expect this action to result in a significant increase in the premiums that observer providers currently pay. In fact, the action could result in lower premiums because it would establish a national standard that does not include certain coverages that are required under current regulations. Additionally, the increased efficiency of a national standard may bring about lower premiums. NMFS invites public commenters to provide information that could inform these assumptions.

*Paperwork Reduction Act*

This action does not contain a change to a collection-of-information requirement for purposes of the Paperwork Reduction Act. NMFS' regional observer program regulations that authorize observer providers or that specify authorized provider responsibilities already include procedures for demonstrating compliance with program insurance requirements, and this proposed rule would not change those procedures. The following existing collection of information requirements would continue to apply, under the following control numbers: (1) 0648–0318, Alaska Observer Program (applies to the North Pacific Observer Program); (2) 0648–0500, An Observer Program for At-Sea Processing Vessels in the Pacific Coast Groundfish Fishery; and (3) 0648–0546, Northeast Region Observer Providers Requirements. Note that, while this action would make clear that the existing regulations for the West Coast Catcher Processor Program (50 CFR 660.160) include insurance requirements for permitted observer providers (by adding a reference to the minimum insurance standard to the program's regulations), the collection of an insurance certificate from observer providers that are permitted to operate in this program is already covered under the existing control number 0648–0500, An Observer Program for At-Sea Processing Vessels in the Pacific Coast Groundfish Fishery.

*Initial Regulatory Flexibility (IRFA) Analysis*

Pursuant to Section 603 of the Regulatory Flexibility Act (RFA), NMFS has prepared an IRFA to analyze the potential impact that this rule, if adopted, would have on small entities. The RIR and IRFA are available for public review (see **ADDRESSES**). A summary of the IRFA follows.

*Description of the Reasons Why Action Is Being Considered*

The policy reasons for issuing this proposed rule are discussed previously in the preamble of this document, and are not repeated here.

*Statement of the Objectives of, and Legal Basis for, the Proposed Rule; Identification of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule*

The objective of this proposed rule is to promote effective operation of regional observer programs by ensuring that observer providers have a nationally consistent suite of insurance coverages that properly addresses the financial risks of their operations, regardless of the fishery observed or the region in which the provider operates.

The legal basis for this proposed rule is 16 U.S.C. 1855(d). No other Federal rules duplicate, overlap, or conflict with this proposed rule.

*Number and Description of Small Entities Regulated by the Proposed Action*

Currently, there are six companies that provide observer services in a NMFS mandatory or voluntary observer program. These entities, which would be directly regulated by the proposed action, include: A.I.S. Inc.; Alaskan Observers, Inc.; Saltwater, Inc.; TechSea International; Fathom Resources LLC; and East West Technical Services, LLC. Four of these entities operate in the North Pacific Observer Program. Three operate in the West Coast Observer Program, and two operate in the Northeast Observer Program. The specific NMFS regional observer programs in which these companies may be permitted or approved to deploy observers are as follows: The North Pacific Observer Program, 50 CFR 679.52; the West Coast Groundfish Observer Program, 50 CFR 660.16; the West Coast Catch Monitor Program, 50 CFR 660.17; the West Coast Groundfish Observer and Catch Monitor Provider Permits Program, 50 CFR 660.18; the West Coast Shoreside IFQ Program, 50 CFR 660.140; the West Coast Mothership Cooperative Program, 50 CFR 660.150; the West Coast Catcher Processor Cooperative Program, 50 CFR 660.160; the program for Northeast at-sea sampler/observer coverage, 50 CFR 648.11(h); and the Northeast Multispecies at-sea sector monitoring program, 50 CFR 648.87(b)(4). The information available to NMFS indicates that the principal activity of most of these companies is providing observers. All of the current observer provider companies are considered small entities under the RFA.

Additionally, firms interested in obtaining approval or a permit to provide observer services under a NMFS regional observer program in the future would be regulated under the proposed action. Observer provider services are a specialized area, and NMFS does not know how many other firms might want to become providers in the future. In any event, NMFS anticipates that any new providers would be considered small entities. For purposes of the RFA, NMFS established a small business size standard (NAICS 11411) for all businesses in the commercial fishing industry including their affiliates, whose primary industry is commercial fishing. (See 80 FR 81194; 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all of its affiliated operations worldwide. Based on available information, NMFS has determined that all six of these companies are small entities, *i.e.,* they are engaged in the business of fish harvesting (NAICS 114111), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million.

Even though this proposed action would apply to a substantial number of the relevant businesses, the implementation of this action would not result in a significant adverse economic impact on individual companies. As described below, the proposed action could result in possible changes in insurance costs for these companies, ranging from an increase of approximately $10,000 to an approximate decrease of a similar amount. This range includes potential benefits to the companies stemming from clarifying requirements and allowing them to drop certain insurance policies that are no longer necessary.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule*

This proposed rule does not include new reporting, recordkeeping, or other compliance requirements. As noted under the Paperwork Reduction Act header above, NMFS' regional observer program regulations that authorize observer providers or that specify authorized provider responsibilities, already include procedures for demonstrating compliance with program insurance requirements, and this proposed rule would not change those procedures.

*Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities*

As required by 5 U.S.C. 603(c), NMFS' analysis considered whether there are any significant alternatives to the proposed rule that would accomplish its stated objectives while minimizing any significant economic impact on small entities. To identify alternatives, NMFS took several information gathering actions. In 2016, NMFS held an Observer Provider Insurance Workshop (2016 Workshop), which was attended by marine insurance experts, observer providers, observer representatives, and officials from relevant Federal and state agencies. Additionally, in 2018, NMFS issues a Request for Information (2018 RFI) in which it asked for input on an appropriate suite of insurance and associated coverage amounts for observer providers (83 FR 32829, July 16, 2018). Through this engagement, NMFS identified no alternatives to the proposed rule that would reasonably address the unique risks that observer coverage presents for observer providers, observers, and the industry that is subject to observer coverage requirements. Therefore, NMFS analyzed only whether the proposed rule would have a significant adverse economic impact on observer providers, all of which are small entities.

The question of whether this proposed rule would have a significant economic impact on the small entity observer providers depends upon whether carrying the required policies under the minimum national standard would result in increased premiums compared to the premiums that observer providers currently pay to comply with existing regional requirements. However, as described below, NMFS lacks the precise baseline information on existing premium costs that is necessary to determine, with any specificity the economic impact that may result from the proposed rule. NMFS attempted to obtain baseline information on current observer provider insurance premium costs through outreach to the six companies that provide observer services in a NMFS mandatory or voluntary observer program. However, these companies viewed insurance cost information as proprietary, and, therefore, declined to provide details of their insurance costs or estimates of what premium costs would be to comply with the proposed national minimum standard. Nonetheless, based on the limited information that these companies did provided, NMFS estimated that current observer provider insurance premiums cost less than $5,000 per employee. It is possible that the proposed rule could result in a decrease of premiums from the estimated $5,000 per employee baseline, due to cost savings from lower premiums, from the consolidation of policies, or from the cancellation of policies that are no longer necessary. It is also possible for a premium increase to an outer bound of $10,000 per employee if a company previously had no policy coverage at all. Using these general assumptions, NMFS developed ranges in observer provider premium changes that could result upon

implementation of the proposed rule (see table below).

To form an accurate assessment of the economic impact that may result from the proposed rule, NMFS requests comment on the ranges described below. NMFS is seeking comments on two aspects of these premium ranges. Specifically, NMFS would like comments on whether the magnitude of the ranges described below accurately captures the likely premium changes that may result from the proposed rule. In addition, NMFS would like comments on which of these ranges is most likely to apply, should the proposed rule be finalized.

*Proposed Action Estimated Ranges of Observer Provider Premium Changes*

| Insurance premium increases | Insurance premium decreases |
|---|---|
| $0 to $2,500 per employee. | $0 to $2,500 per employee. |
| $2,500 to $5,000 per employee. | $2,500 to $5,000 per employee. |
| $5,000 to $7,500 per employee. | $5,000 to $7,500 per employee. |
| $7,500 to $10,000 per employee. | $7,500 to $10,000 per employee. |

**List of Subjects**

*50 CFR Part 600*

Administrative practice and procedure, Confidential business information, Fish, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

*50 CFR Part 648*

Fisheries, Fishing, Reporting and recordkeeping requirements.

*50 CFR Part 660*

Fisheries, Fishing, Indians, Recreation and recreation areas, Reporting and recordkeeping requirements, Treaties.

*50 CFR Part 679*

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 16, 2021.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NOAA proposes to amend 50 CFR parts 600, 648, 660, and 679 as follows:

## PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for 50 CFR part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In subpart H, add § 600.748 to read as follows:

**§ 600.748 National Minimum Observer Provider Insurance Standard.**

(a) *Applicability.* As part of regulations for observer provider companies to obtain approval or a permit to deploy a person in any mandatory or voluntary observer program, or regulations that specify approved or permitted observer provider responsibilities, NMFS must reference and ensure compliance with the following national minimum insurance standard.

(b) *Policies and Coverage Amounts.* (1) Marine General Liability ($1 million any one occurrence).

(2) Marine Employers Liability ($1 million any one occurrence) for an observer provider that is authorized, or has applied to be authorized, to deploy observers or monitors at-sea.

(3) State workers' compensation as required by each state in which the observer provider is authorized, or has applied to be authorized, to deploy observers or monitors at-sea or shoreside.

(4) U.S. Longshore and Harbor Workers' Act coverage, either as a stand-alone policy or as a state workers' compensation policy endorsement, if that policy or a policy endorsement is required by the respective state(s) in which the observer provider is authorized, or has applied to be authorized, to deploy observers or monitors at-sea or shoreside.

(5) Excess or umbrella coverage ($2 million any one occurrence).

(c) Policy coverages. Coverage must extend to injury, liability, and accidental death during the period of employment, including training, of observers or monitors at-sea or shoreside.

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 3. The authority citation for 50 CFR part 648 continues to read as follows:

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

■ 4. In § 648.11, revise the section heading and paragraph (h)(3)(vii) to read as follows:

**§ 648.11 At-sea sampler/observer coverage.**

* * * * *

(h) * * *

(3) * * *

(vii) Evidence of holding insurance specified at § 600.748(b) and (c) of this chapter.

* * * * *

■ 5. In § 648.87, revise paragraph (b)(4)(i)(G) to read as follows:

**§ 648.87 Sector allocation.**

* * * * *

(b) * * *

(4) * * *

(i) * * *

(G) Evidence of holding insurance specified at § 600.748(b) and (c) of this chapter.

* * * * *

## PART 660—FISHERIES OFF WEST COAST STATES

■ 6. The authority citation for 50 CFR part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.;* 773 *et seq.;* 7001 *et seq.*

■ 7. In § 660.17, revise paragraph (f)(1)(vii)(B) to read as follows:

**§ 660.17 Catch monitor program.**

* * * * *

(f) * * *

(1) * * *

(vii) * * *

(B) The observer provider must submit copies of ''certificates of insurance,'' that names the Catch Monitor Program Coordinator as the ''certificate holder'' to the Catch Monitor Program Office by February 1 of each year. The certificates of insurance shall verify all coverage provisions specified at § 600.748(b) and (c) of this chapter and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

* * * * *

■ 8. In § 660.140, revise paragraph (h)(5)(xi)(C) to read as follows:

**§ 660.140 Shorebased IFQ Program.**

* * * * *

(h) * * *

(5) * * *

(xi) * * *

(C) *Certificates of insurance.* The observer provider must submit copies of ''certificates of insurance'' that name the Northwest Fisheries Science Center Observer Program manager as the ''certificate holder'' to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify all coverage provisions specified at § 600.748(b) and (c) of this chapter and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

* * * * *

■ 9. In § 660.150, add paragraph (j)(4)(xi)(A)(*6*), and revise paragraph (j)(4)(xi)(B)(*3*) to read as follows:

**§ 660.150 Mothership (MS) Coop Program.**

* * * * *

(j) * * *

(4) * * *

(xi) * * *

(A) * * *

(*6*) *Certificates of insurance.* The observer service provider must submit copies of ''certificates of insurance'' that name the Northwest Fisheries Science Center Observer Program manager as the ''certificate holder'' to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify all coverage provisions specified at § 600.748(b) and (c) of this chapter and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

* * * * *

(B) * * *

(*3*) *Certificates of insurance.* The observer provider must submit copies of ''certificates of insurance'' that name the Northwest Fisheries Science Center Observer Program manager as the ''certificate holder'' to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify all coverage provisions specified at § 600.748(b) and (c) of this chapter and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

* * * * *

■ 10. In § 660.160, add paragraph (g)(1)(iv) to read as follows:

**§ 660.160 Catcher/processor (C/P) Coop Program.**

* * * * *

(g) * * *

(1) * * *

(v) *Certificates of insurance.* The observer provider must submit copies of ''certificates of insurance'' that name the Northwest Fisheries Science Center Observer Program manager as the ''certificate holder'' to the Observer Program Office by February 1 of each year. The certificates of insurance shall verify all coverage provisions specified at § 600.748(b) and (c) of this chapter and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

* * * * *

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 11. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 12. In § 679.52, revise paragraph (b)(11)(vi) to read as follows:

**§ 679.52 Observer provider permitting and responsibilities.**

* * * * *

(b) * * *

(11) * * *

(vi) *Certificates of insurance.* Copies of ''certificates of insurance'' that name the NMFS Observer Program leader as the ''certificate holder'' must be submitted to the Observer Program by February 1 of each year. The certificates of insurance shall verify all coverage provisions specified at § 600.748(b) and (c) of this chapter and state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled.

* * * * *

[FR Doc. 2021–25367 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 86, No. 222
Monday, November 22, 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

November 17, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to 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 and other forms of information technology.

Comments regarding this information collection received by December 22, 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 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.

**Forest Service**

*Title:* Grazing Permit Administration Forms.

*OMB Control Number:* 0596–0003.

*Summary of Collection:* Annually, livestock grazing occurs on approximately 94 million acres of National Forest Service (NFS) lands. This grazing is subject to authorization and administrative oversight by the Forest Service (FS). The information is required for the issuance and administration of grazing permits, including fee collections, on NFS land as authorized by the Federal Land Policy and Management Act 1976, as amended, and subsequent Secretary of Agriculture Regulation 5 U.S.C. 301, 36 CFR 222, subparts A and C. The bills for collection of grazing fees are based on the number of domestic livestock grazed on national forest lands and are a direct result of issuance of the grazing permit. Information must be collected on an individual basis and is collected through the permit issuance and administration process. FS will collect information using several forms.

*Need and Use of the Information:* FS will use the information collected on the forms to acquire data from applicants applying for new grazing permits or making changes to their current grazing permit(s). FS also uses the information collected in administering the grazing use program on NFS land. If information were not collected it would be impossible for the agency to administer a grazing use program in accordance with the statutes and regulations.

*Description of Respondents:* Farms; Business or other for-profit; Individuals or households.

*Number of Respondents:* 1,543.

*Frequency of Responses:* Reporting: Annually; Other (as needed basis).

*Total Burden Hours:* 577.

**Forest Service**

*Title:* The Stewardship Mapping and Assessment Project (STEW–MAP).

*OMB Control Number:* 0596–0240.

*Summary of Collection:* The Cooperative Forestry Assistance Act of 1978 (Pub. L. 113–79) Section 9(a); (b)(8); (c) and (d); The Forest and Rangeland Renewable Resources Research Act of 1978 and the National Environmental Policy act of 1969 authorize the Forest Service to expand and strengthen existing research, education, technical assistance and public information and participation in tree planting and maintenance programs through stewardship. Civic environmental stewards are involved in a range of activities like planting trees, organizing community gardens, offering environment-themed classes, leading local conservation efforts, monitoring plants and animals, and cleaning up nearby parks or natural areas. These stewards may be nonprofit organizations, formal or informal community groups, faith-based organizations, or academic institutions. STEW–MAP will create a publicly available database and map of stewardship groups, their activities, and where they work.

*Need and Use of the Information:* Information will be gathered on civic stewardship groups and their efforts such as where they work, the types of projects they focus on, and how they are organized. There are three phases to a STEW–MAP project: (1) A census to put together a master list of known stewardship groups and their contact information in the target city or region; (2) a survey distributed to all of the organizations identified in phase one to collect information about what they work on, structure of the group and what other groups they collaborate with; and (3) follow-up interviews with key longstanding organizations identified during phase two, to collect more detailed information about organizational histories. Without this information collection, FS would be unable to understand the current state of civic natural resource stewardship and would be unable to identify the organizations that may provide assistance to a given geographical area.

*Description of Respondents:* Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Governments.

*Number of Respondents:* 8,525.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 4,304.

**Levi S. Harrell,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2021–25411 Filed 11–19–21; 8:45 am]

BILLING CODE 3411–15–P

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

November 17, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to 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 December 22, 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 particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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**Agricultural Research Service**

*Title:* Information Collection for Document Delivery Services.

*OMB Control Number:* 0518–0027.

*Summary of Collection:* The National Agricultural Library (NAL) accepts requests from libraries and other organizations in accordance with the national and international interlibrary loan code and guidelines. In its national role, NAL collects, and supplies copies or loans of agricultural materials not found elsewhere. 7 U.S.C. 3125a and 7 CFR 505 gives NAL the authority to collect this information. NAL provides photocopies and loans of materials directly to USDA staff, other Federal agencies, libraries, and other institutions, and indirectly to the public through their libraries. The Library charges for some of these activities through a fee schedule. To fill a request for reproduction or loan of items the library must have the name, mailing address, phone number of the respondent initiating the request, and may require an email address. The respondent must also provide a brief statement acknowledging copyright compliance, required by Title 17 of the United States Code. The collected information is used to deliver the material to the respondent, monitor the return to NAL of loaned material, and identify and locate the requested material in NAL collections.

*Need and Use of the Information:* The NAL document delivery staff uses the information collected to identify the protocol for processing the request. The staff also uses the information provided to process/package the reproduction or loan for delivery. All collected information is confidential and only used by staff that need to process the request. Without the requested information NAL has no way to locate and deliver the loan or reproduction to the respondent, and thus cannot meet its mandate to supply agricultural material.

*Description of Respondents:* Federal Government; Not-for-profit institutions; State, Local or Tribal Government; Business or other for-profit.

*Number of Respondents:* 198.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 29.

**Agricultural Research Service**

*Title:* Web Forms for Research Data, Models, Materials, and Publications as Well as Study and Event Registration.

*OMB Control Number:* 0518–0032.

*Summary of Collection:* OMB Circular 130 Management of Federal Information Resources, establishes that ''agencies will use electronic media and formats. . . in order to make government information more easily accessible and useful to the public'' In order to provide information and services related to its program responsibilities defined at 7 CFR 2.65, the Agricultural Research Service (ARS) needs to obtain certain basic information from the public. Online forms allow the public to request from ARS research data, models, materials, and publications as well as registration for scientific studies and events.

*Need and Use of the Information:* ARS will use the information to respond to requests for specific services. The information will be collected electronically. If this collection is not conducted, ARS will be hindered from reducing the burden on its customers by providing them the most timely and efficient way to request services.

*Description of Respondents:* Individuals or households.

*Number of Respondents:* 11,600.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 580.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2021–25435 Filed 11–19–21; 8:45 am]

**BILLING CODE 3410–03–P**

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

November 17, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to 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 December 22, 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 particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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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.

**Rural Business-Cooperative Service**

*Title:* Rural Development Co-operative Agreements.

*OMB Control Number:* 0570–0074.

*Summary of Collection:* Pursuant to the Federal Agricultural Improvement Act of 1996 (Pub L. 104–127), the U.S. Department of Agriculture (USDA) received authorization from Congress under 7 U.S.C. 2204b(b)(4) to enter into cooperative agreements for the purpose of improving the coordination and effectiveness of programs that benefit rural areas. This authority is referred to as the Rural Development Cooperative Agreement (RDCA) program. There are three agencies within USDA that administer programs that specifically target rural areas: The Rural Business-Cooperative Service (RBS), the Rural Housing Service (RHS), and the Rural Utilities Service (RUS).

Each year, USDA receives proposals from the public that are not in response to a specific program announcement. These proposals are called unsolicited proposals. If a proposal is related to one or more programs administered by RD, it will be routed for review and possible consideration for a cooperative agreement using the RDCA authority. If the proposal is unique or innovative, then an agency has authority to enter into a cooperative agreement without competition (see 2 CFR 415.1(d)(6)).

USDA may, alternatively, issue an invitation to submit applications for a cooperative agreement using the RDCA authority. These proposals are called solicited proposals. Solicited proposals would typically be announced via a **Federal Register** Notice.

*Need and Use of the Information:* The Agency provides forms and/or guidelines to assist in collection and submission of the information required. In some cases, use of Agency forms is optional and the applicant may submit the information required on other forms. The Agency will utilize standard and existing Rural Development forms to the greatest extent possible to continue to meet the needs of the program. The forms or related items completed by the applicant are submitted to and evaluated by the Agency. Failure to collect proper information from applicants could result in improper determinations of servicing assistance, hinder the government's recovery of such loans as well as encumber customer service.

*Description of Respondents:* Individuals or Households.

*Number of Respondents:* 100.

*Frequency of Responses:* Recordkeeping; Reporting: Annually.

*Total Burden Hours:* 1,650.

**Levi S. Harrell,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2021–25409 Filed 11–19–21; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2020–0061]**

### Notice of Decision To Authorize the Importation of Fresh Mango Fruit From Colombia Into the United States

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our decision to authorize the importation into the United States of fresh mango fruit from Colombia. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh mango fruit from Colombia.

**DATES:** Imports may be authorized beginning November 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations, and Manuals, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2352; *claudia.ferguson@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

Under the regulations in ''Subpart L-Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis (PRA), can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under the process, APHIS proposes to authorize the importation of a fruit or vegetable into the United States if, based on the findings of a pest risk analysis, we determine that the measures can mitigate the plant pest risk associated with the importation of that fruit or vegetable. APHIS then publishes a notice in the **Federal Register** announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of that fruit or vegetable.

In accordance with that process, we published a notice [1] in the **Federal Register** on May 12, 2021 (86 FR 25998–25999, Docket No. APHIS–2020–0061), in which we announced the availability, for review and comment, of a PRA that evaluated the risks associated with the importation into the United States of fresh mango fruit from Colombia. The PRA consisted of a risk assessment identifying pests of quarantine significance that could follow the pathway of importation of fresh mango fruit from Colombia and a risk management document (RMD) identifying phytosanitary measures to be applied to that commodity to mitigate the pest risk.

We solicited comments on the notice for 60 days ending July 12, 2021. We received two comments by that date, one from a Colombian government ministry and the other from the national plant protection organization (NPPO) of Colombia.

The commenter representing the government ministry expressed unqualified support for the notice.

The commenter representing the NPPO asked that we change the density of trapping for fruit flies. We had proposed 2 traps per hectare; the commenter instead asked for 2 traps every 20 hectares with a minimum of 2 traps per place production. The commenter also asked that we require 50 percent of the traps to be of the McPhail type and the other half to be of the Jackson type. As support for these requested changes to the requirements, the commenter cited technical

[1] To view the notice, supporting documents, and the comments we received, go to *www.regulations.gov.* Enter APHIS–2020–0061 in the Search field.

guidelines issued by the International Atomic Energy Agency.[2]

We agree with the change to trap density requirements proposed by the commenter; these revised requirements will be specified in the operational workplan. As specified in the RMD, the NPPO is required to maintain an APHIS-approved quality control program to monitor or audit the trapping program, including records of trap placement, checking of traps, and any fruit fly captures, with the specific requirements regarding trap density specified in the operational workplan, which must be approved by APHIS.

The same commenter also asked that we change the requirements for treatment certification so that the Colombian NPPO, instead of APHIS inspectors, inspects and preclears each consignment of mango fruit that receives the APHIS-approved hot water treatment. As part of the commenter's request, APHIS' role would consist of an initial visit to approve the program and subsequent visits for any cases of program non-compliance.

We are making no changes in response to the treatment requirement certification as requested by the commenter. In accordance with longstanding policy, APHIS requires oversight of offshore treatments by APHIS officers, including hot water treatment of mango fruit from Colombia, with details specified in the operational workplan.

Therefore, in accordance with the regulations in § 319.56–4(c)(3)(iii), we are announcing our decision to authorize the importation into the United States of fresh mango fruit from Colombia subject to the following phytosanitary measures:

- The NPPO of Colombia must enter into an operational workplan with APHIS that spells out the daily procedures the NPPO will take to implement the below measures.
- Only commercial consignments of mango fruit may be imported.
- All growers must be registered with the NPPO and follow operational workplan requirements for suppression of fruit flies.
- The NPPO must monitor the system for inspection, packing, wrapping, transportation, and loading of the commodity and ensure that participating growers are following the program guidelines.
- Packinghouses must be registered and approved by the NPPO and meet the requirements listed in the operational workplan.
- The NPPO is expected to maintain program records for at least 1 year and provide them to APHIS upon request.
- The NPPO or its designate must conduct a fruit fly trapping program for the detection of *Anastrepha* spp. and Medfly (*Ceratitis capitata*) at each production site. Details of trap placement, checking of traps, trap density, and remedial fruit fly control measures will be included in the operational workplan. The NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program and maintain records of trap placement, checking of traps, and any fruit fly captures. The trapping records must be maintained for at least 1 year and provided to APHIS upon request.
- The mangos must be treated with an APHIS-approved treatment for *Anastrepha* spp. fruit flies and Medfly (*Ceratitis capitata*). Either:
  - Hot water treatment, T102-a, which is only available for use in a preclearance program in accordance with 7 CFR part 305. Each consignment of fruit treated with the APHIS-approved hot water treatment must be precleared by APHIS inspectors in Colombia. The treatment must be carried out under the supervision and direction of APHIS and each consignment must be inspected jointly by APHIS and the NPPO. Treatment must occur in a pest-exclusionary treatment facility; or
  - Irradiation treatment, T105-a-1, which requires the fruit to be irradiated with a minimum absorbed dose of 150 Gray for fruit flies and follow the requirements of 7 CFR part 305. If the approved irradiation treatment is applied outside the United States, each consignment of fruit must be precleared by APHIS inspectors in Colombia. Treatment must occur in a pest-exclusionary treatment facility or, if irradiation is to be applied upon arrival in the United States, each consignment of fruit must be inspected by the NPPO prior to departure and accompanied by a phytosanitary certificate issued by the NPPO. Mangos intended to be irradiated in the United States must be shipped in APHIS-approved packaging that prevents escape of any *Anastrepha* spp. or Medfly larvae or adults.
- All hot water or irradiation treatment facilities in Colombia to be used for mangos are subject to APHIS approval. APHIS reserves the right to require oversight visits in the event of pest interceptions or other problems.
- Mango fruit must be safeguarded from exposure to *Anastrepha* spp. or Medfly from the time of treatment to export. The package containing mango fruit may not contain any other fruit, including mango fruit not qualified for importation into the United States.
- Each consignment must be inspected jointly by inspectors from APHIS and the NPPO and accompanied by a phytosanitary certificate issued by the NPPO.
- If more than one *Ceratitis capitata* or *Anastrepha* spp. or one *Neosilba glaberrima* is detected in a consignment, the consignment may not be exported to the United States.
- Each consignment is subject to inspection at the U.S. ports of entry.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at *https://epermits.aphis.usda.gov/manual*). In addition to these specific measures, fresh mango fruit from Colombia will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the recordkeeping and burden requirements associated with this action are covered under the Office of Management and Budget control number 0579–0049, which is updated every 3 years during the required renewal period. We estimate the total annual burden to be 986 hours.

**E-Government Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance 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, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483.

**Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

*Authority:* 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

[2] *Trapping guidelines for area-wide fruit fly programmes.* Available at *https://www-pub.iaea.org/MTCD/Publications/PDF/TG-FFP_web.pdf.*

Done in Washington, DC, this 16th day of November 2021.

**Michael Watson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2021–25361 Filed 11–19–21; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

**[Docket No. RBS–21–BUSINESS–0024]**

### Inviting Applications for the Rural Energy for America Program; Amendment

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice; amendment.

**SUMMARY:** The Rural-Business Cooperative Service (the Agency) published a notice of solicitation of applications (NOSA) in the **Federal Register** on July 26, 2021, entitled ''Inviting Applications for the Rural Energy for America Program,'' to allow potential applicants time to submit applications for financial assistance under the Rural Energy for America Program (REAP) for fiscal year (FY) 2022 and allow the Agency time to process applications within the current FY. This notice amends scoring provisions found in Section V.A. to notify stakeholders of how the Agency intends to utilize State Director and Administrator priority points for FY 2022.

**FOR FURTHER INFORMATION CONTACT:** For general information contact Deb Yocum, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 2920 East Court Street, Suite 3, Beatrice, NE 68310, 402–499–1198 or email *CPgrants@usda.gov.*

For project specific information or to file an application contact the applicable USDA Rural Development Energy Coordinator in your respective state, as identified via the following link: *https://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf.*

**SUPPLEMENTARY INFORMATION:**

#### Amendment

In FR Doc. 2021–15785 of July 26, 2021 (86 FR 40000), the following amendment to provide additional guidance on priority points is being made:

On page 40003, in column 1, under Section V. ''Application Review Information,'' subsection A. ''Scoring,'' at the end, add the following paragraphs to read as follows:

State Director and Administrator priority points can be awarded to applications which help further a Presidential initiative, or a Secretary of Agriculture priority as found in 7 CFR 4280.121 (h)(4) for REAP Renewable Energy Systems (RES) and Energy Efficiency Improvement (EEI) grants and 7 CFR 5001.319 (g)(4) for REAP RES and EEI and Energy Efficient Equipment and Systems guaranteed loans. For FY 2022, 10 State Director and Administrator priority points will be automatically awarded for applications, which based on location, meet any one of the key priorities as follows: (1) Assisting rural communities to recover economically from the impacts of the COVID–19 pandemic, particularly disadvantaged communities; (2) Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and (3) Supporting economic investments in distressed communities. Data sources for the key priorities are found at: *https://www.rd.usda.gov/priority-points* and at *https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=06a26a91d074426d944d22715a90311e* for distressed communities.

The State Director or Administrator at their discretion may award up to 5 priority points maximum for projects which meet any of the following criteria if a project does not qualify for the 10 priority points under the Administration's priorities or as a distressed community as described above: (1) The application is for an under-represented technology; (2) selecting the application helps achieve geographic diversity, which may include points based upon the size of the funding request; (3) the applicant is a member of an unserved or under-served population described as follows: (i) Owned by a veteran, including but not limited to individuals as sole proprietors, members, partners, stockholders, etc., of not less than 20 percent. In order to receive points, applicants must provide a statement in their application to indicate that owners of the project have veteran status; or (ii) owned by a member of a socially disadvantaged group, which are groups whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. In order to receive points, the application must include a statement to indicate that the owners of the project are members of a socially disadvantaged group; (4) the proposed project is located in a Federally declared major disaster area. Declarations must be within the last 2 calendar years; (5) the proposed project is located in an area where 20 percent or more of its population is living in poverty over the last 30 years, as defined by the United States Census Bureau, underserved community(ies) or has experienced long-term population decline, or loss of employment. Except for veteran and socially disadvantaged group status, all other priority points are based upon project location specific criteria which will be documented automatically by the Agency. State Director or Administrator priority points for a REAP application cannot exceed 10 points total.

**Karama Neal,**

*Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2021–25326 Filed 11–19–21; 8:45 am]

**BILLING CODE 3410–XY–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the South Carolina Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of web briefing.

**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 South Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a web briefing on Thursday, December 2, 2021, at 12:00 p.m. ET to hear testimony on Civil Asset Forfeiture.

**DATES:** The meeting will take place via Webex on Thursday, December 2, 2021, at 12:00 p.m. ET.

*Online Regisration (Audio/Visual): https://tinyurl.com/7yesukmt*

*Telephone (Audio Only):* Dial 800–360–9505 USA Toll Free; Access code: 433 716 81

**FOR FURTHER INFORMATION CONTACT:** Barbara de La Viez, DFO, at *bdelaviez@usccr.gov* or (202) 376–8473.

**SUPPLEMENTARY INFORMATION:** Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, 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. 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 details found through registering at the web link above. To request additional accommodations, please email *ero@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also 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 Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination 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, South Carolina 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 Coordination Unit at the above email or street address.

**Agenda**

I. Roll Call
II. Opening Statement
III. Briefing
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: Tuesday, November 16, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021–25333 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Nevada 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 (FACA) that the Nevada Advisory Committee (Committee) will hold a meeting via web conference on Monday, November 29, 2021, at 2:00 p.m. Pacific Time. The purpose of the meeting is to discuss potential post-report activities to amplify report on remote learning and equity in education.

**DATES:** Monday, November 29, 2021, at 2:00 p.m. Pacific Time.

*Webex Information:* Register online *https://civilrights.webex.com/meet/afortes.*

*Audio:* (800) 360–9505, ID: 199–167–8181.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes, Designated Federal Officer (DFO) at *afortes@usccr.gov* or by phone at (202) 681–0857.

**SUPPLEMENTARY INFORMATION:** Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and 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. Persons with hearing impairments 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.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit Office within 30 days following the meeting. Written comments may be mailed to Ana Victoria Fortes at *afortes@usccr.gov* in the Regional Programs Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Programs Unit Office (202) 681–0587.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlJAAQ.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome
II. Update on Report
III. Discussion on Potential Post Report Activity
IV. Public Comment
V. Vote
VI. Adjournment

Dated: November 17, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021–25437 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Kentucky Advisory Committee; Correction

**AGENCY:** Commission on Civil Rights.

**ACTION:** Notice; revision to meeting registration.

**SUMMARY:** The Commission on Civil Rights published a notice in the **Federal Register** on Wednesday, October 20, 2021, concerning a meeting of the Kentucky Advisory Committee. The document contained the incorrect registration link.

**FOR FURTHER INFORMATION CONTACT:** Liliana Schiller, *lschiller@usccr.gov.*

*Correction:* In the **Federal Register** on Wednesday, October 20, 2021, in FR Document Number 2021–22871, on page 58057, first column, correct the registration link to: *https://tinyurl.com/3jsufwfe.*

Dated: November 17, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021–25442 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee will meet December 14, 2021, at 10:00 a.m., Eastern Standard Time, via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

**Agenda**

*Public Session*

1. Opening remarks by the Chairman

2. Opening remarks by the Bureau of Industry and Security
3. Presentation of papers or comments by the Public
4. Regulations Update
5. Working Group Reports
6. Automated Export System Update

*Closed Session*

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than December 7, 2021.

To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on May 14, 2021, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, contact Yvette Springer via email.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2021–25390 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–JT–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Procedures for Submitting Request for Exclusions From the Section 232 National Security Adjustments of Imports of Steel and Aluminum

**AGENCY:** Bureau of Industry and Security, 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 January 21, 2022.

**ADDRESSES:** Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*. Please reference OMB Control Number 0694–0139 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 Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

On March 8, 2018, the President issued Proclamations 9704 and 9705 concurring with the findings of the two reports and determining that adjusting imports through the imposition of duties on steel and aluminum is necessary so that imports of steel and aluminum will no longer threaten to impair the national security. The Proclamations also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior executive branch officials as appropriate, to grant exclusions from the duties for domestic parties affected by the duties. This could take place if the Secretary determines the steel or aluminum for which the exclusion is requested is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or should be excluded based upon specific national security considerations. The President directed the Secretary to promulgate regulations as may be necessary to implement an exclusion process. The purpose of this information collection is to allow for submission of exclusions requests from the remedies instituted in presidential proclamations adjusting imports of steel into the United States and adjusting imports of aluminum into the United States.

#### II. Method of Collection

Electronic.

#### III. Data

*OMB Control Number:* 0694–0139.
*Form Number(s):* None.
*Type of Review:* Regular submission, extension of a current information collection.
*Affected Public:* Business or other for-profit organizations.
*Estimated Number of Respondents:* 84,401.
*Estimated Time per Response:* 4 hours.
*Estimated Total Annual Burden Hours:* 337,604.
*Estimated Total Annual Cost to Public:* 12,491,348.
*Respondent's Obligation:* Voluntary.
*Legal Authority:* Section 232 of the Trade Expansion Act of 1962, Presidential Proclamations 9704 and 9705.

#### 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. 2021–25453 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Procedures for Submitting Requests for Objections From the Section 232 National Security Adjustments of Imports of Steel and Aluminum

**AGENCY:** Bureau of Industry and Security, 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 January 21, 2022.

**ADDRESSES:** Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*. Please reference OMB Control Number 0694–0138 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 Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

On March 8, 2018, the President issued Proclamations 9704 and 9705 concurring with the findings of the two reports and determining that adjusting imports through the imposition of duties on steel and aluminum is necessary so that imports of steel and aluminum will no longer threaten to impair the national security. The Proclamations also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior executive branch officials as appropriate, to grant exclusions from the duties for domestic parties affected by the duties. This could take place if the Secretary determines the steel or aluminum for which the exclusion is requested is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or should be excluded based upon specific national security considerations. The President directed the Secretary to promulgate regulations as may be necessary to implement an exclusion process. The purpose of this information collection is to allow for submission of exclusions requests from the remedies instituted in presidential proclamations adjusting imports of steel into the United States and adjusting imports of aluminum into the United States.

#### II. Method of Collection

Electronic.

#### III. Data

*OMB Control Number:* 0694–0138.

*Form Number(s):* 0694–0138.

*Type of Review:* Regular submission, extension of a current information collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 41,128.

*Estimated Time per Response:* 4 hours.

*Estimated Total Annual Burden Hours:* 164,512.

*Estimated Total Annual Cost to Public:* 0.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Section 232 of the Trade Expansion Act of 1962, Presidential Proclamations 9704 and 9705.

#### 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. 2021–25454 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Order Renewing Order Temporarily Denying Export Privileges

Mahan Airways, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran;

Pejman Mahmood Kosarayanifard, a/k/a Kosarian Fard, P.O. Box 52404, Dubai, United Arab Emirates;
Mahmoud Amini, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates; and P.O. Box 52404, Dubai, United Arab Emirates; and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates;
Kerman Aviation, a/k/a GIE Kerman Aviation, 42 Avenue Montaigne 75008, Paris, France;
Sirjanco Trading LLC, P.O. Box 8709, Dubai, United Arab Emirates;
Mahan Air General Trading LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates;
Mehdi Bahrami, Mahan Airways-Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey;
Al Naser Airlines, a/k/a al-Naser Airlines, a/k/a Al Naser Wings Airline, a/k/a Alnaser Airlines and Air Freight Ltd., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq; and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq; and P.O. Box 28360, Dubai, United Arab Emirates; and P.O. Box 911399, Amman 11191, Jordan;
Ali Abdullah Alhay, a/k/a Ali Alhay, a/k/a Ali Abdullah Ahmed Alhay, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq; and Anak Street, Qatif, Saudi Arabia 61177;
Bahar Safwa General Trading, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates; and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates;
Sky Blue Bird Group, a/k/a Sky Blue Bird Aviation, a/k/a Sky Blue Bird Ltd., a/k/a Sky Blue Bird FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates;
Issam Shammout, a/k/a Muhammad Isam Muhammad Anwar Nur Shammout, a/k/a Issam Anwar, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria; and Al Kolaa, Beirut, Lebanon 151515; and 17–18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom; and Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''), I hereby grant the request of the Office of Export Enforcement (''OEE'') to renew the temporary denial order issued in this matter on May 21, 2021. I find that renewal of this order, as modified, is necessary in the public interest to prevent an imminent violation of the Regulations.[1]

## I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement (''Assistant Secretary''), signed an order denying Mahan Airways' export privileges for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order also named as denied persons Blue Airways, of Yerevan, Armenia (''Blue Airways of Armenia''), as well as the ''Balli Group Respondents,'' namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The order was issued *ex parte* pursuant to Section 766.24(a) of the Regulations, and went into effect on March 21, 2008, the date it was published in the **Federal Register**.

This temporary denial order (''TDO'') was renewed in accordance with Section 766.24(d) of the Regulations.[2] Subsequent renewals also have issued pursuant to Section 766.24(d), including most recently on May 21, 2021.[3] Some of the renewal orders and the modification orders that have issued between renewals have added certain parties as respondents or as related persons, or effected the removal of certain parties.[4]

The September 11, 2009 renewal order continued the denial order as to Mahan Airways, but not as to the Balli Group Respondents or Blue Airways of Armenia.[5] As part of the February 25, 2011 renewal order, Pejman Mahmood Kosarayanifard (a/k/a Kosarian Fard), Mahmoud Amini, and Gatewick LLC (a/k/a Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services) were added as related persons to prevent evasion of the TDO.[6] A

[1] The Regulations, currently codified at 15 CFR parts 730–774 (2021), originally issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015)) (''EAA''), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by successive Presidential Notices, continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (''IEEPA''). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders.

[2] Section 766.24(d) provides that BIS may seek renewal of a temporary denial order for additional 180-day renewal periods, if it believes that renewal is necessary in the public interest to prevent an imminent violation. Renewal requests are to be made in writing no later than 20 days before the scheduled expiration date of a temporary denial order. Renewal requests may include discussion of any additional or changed circumstances, and may seek appropriate modifications to the order, including the addition of parties as respondents or related persons, or the removal of parties previously added as respondents or related persons. BIS is not required to seek renewal as to all parties, and a removal of a party can be effected if, without more, BIS does not seek renewal as to that party. Any party included or added to a temporary denial order as a respondent may oppose a renewal request as set forth in Section 766.24(d). Parties included or added as related persons can at any time appeal their inclusion as a related person, but cannot challenge the underlying temporary denial order, either as initially issued or subsequently renewed, and cannot oppose a renewal request. *See also* note 4, *infra.*

[3] The May 21, 2021 renewal order was effective upon issuance and published in the **Federal Register** on May 27, 2021 (86 FR 28540). Prior renewal orders issued on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, January 24, 2014, July 22, 2014, January 16, 2015, July 13, 2015, January 7, 2016, July 7, 2016, December 30, 2016, June 27, 2017, December 20, 2017, June 14, 2018, December 11, 2018, June 5, 2019, May 29, 2020, November 24, 2020, and May 21, 2021, respectively. The August 24, 2011 renewal followed the issuance of a modification order that issued on July 1, 2011 to add Zarand Aviation as a respondent. The July 13, 2015 renewal followed a modification order that issued May 21, 2015, and added Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. Each of the renewal orders and each of the modification orders referenced in this footnote or elsewhere in this order has been published in the **Federal Register**.

[4] Pursuant to Sections 766.23 and 766.24(c) of the Regulations, any person, firm, corporation, or business organization related to a denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may be added as a ''related person'' to a temporary denial order to prevent evasion of the order.

[5] Balli Group PLC and Balli Aviation settled proposed BIS administrative charges as part of a settlement agreement that was approved by a settlement order issued on February 5, 2010. The sanctions imposed pursuant to that settlement and order included, *inter alia,* a $15 million civil penalty and a requirement to conduct five external audits and submit related audit reports. The Balli Group Respondents also settled related charges with the Department of Justice and the Treasury Department's Office of Foreign Assets Control.

[6] *See* note 4, *supra,* concerning the addition of related persons to a temporary denial order. Kosarian Fard and Mahmoud Amini remain parties to the TDO. On August 13, 2014, BIS and Gatewick resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 CFR 764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period were active, with the remaining five years suspended conditioned upon Gatewick's full and timely payment of the civil penalty and its compliance with the Regulations

Continued

modification order issued on July 1, 2011, adding Zarand Aviation as a respondent in order to prevent an imminent violation.[7]

As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco Trading LLC, and Ali Eslamian were added as related persons. Mahan Air General Trading LLC, Equipco (UK) Ltd., and Skyco (UK) Ltd. were added as related persons by a modification order issued on April 9, 2012. Mehdi Bahrami was added as a related person as part of the February 4, 2013 renewal order.

On May 21, 2015, a modification order issued adding Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. As detailed in that order and discussed further *infra,* these respondents were added to the TDO based upon evidence that they were acting together to, *inter alia,* obtain aircraft subject to the Regulations for export or reexport to Mahan in violation of the Regulations and the TDO.

Sky Blue Bird Group and its chief executive officer, Issam Shammout, were added as related persons as part of the July 13, 2015 renewal order.[8] On November 16, 2017, a modification order issued to remove Ali Eslamian, Equipco (UK) Ltd., and Skyco (UK) Ltd. as related persons following a request by OEE for their removal.[9]

The December 11, 2018 renewal order continued the denial of the export privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Mahan Air General Trading LLC, Mehdi Bahrami, Al Naser Airlines, Ali Abdullah Alhay, Bahar Safwa General Trading, Sky Blue Bird Group, and Issam Shammout.

On October 26, 2021, BIS, through OEE, submitted a written request for renewal of the TDO that issued on May 21, 2021. The written request was made more than 20 days before the TDO's scheduled expiration. Notice of the renewal request was provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received. Furthermore, no appeal of the related person determinations made as part of the September 3, 2010, February 25, 2011, August 24, 2011, April 9, 2012, February 4, 2013, and July 13, 2015 renewal or modification orders has been made by Kosarian Fard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Mahan Air General Trading LLC, Mehdi Bahrami, Sky Blue Bird Group, or Issam Shammout.[10]

## II. Renewal of the TDO

### *A. Legal Standard*

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

### *B. The TDO and BIS's Requests for Renewal*

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO, and the renewal and modification orders subsequently issued in this matter, including the May 21, 2015 modification order and the renewal order issued on May 21, 2021, and the evidence developed over the course of this investigation, which indicate a blatant disregard of U.S. export controls and the TDO. The initial TDO was issued as a result of evidence that showed that Mahan Airways and other parties engaged in conduct prohibited by the EAR by knowingly re-exporting to Iran three U.S.-origin aircraft, specifically Boeing 747s (''Aircraft 1–3''), items subject to the EAR and classified under Export Control Classification Number (''ECCN'') 9A991.b, without the required U.S. Government authorization. Further evidence submitted by BIS indicated that Mahan Airways was involved in the attempted re-export of three additional U.S.-origin Boeing 747s (''Aircraft 4–6'') to Iran.

As discussed in the September 17, 2008 renewal order, evidence presented by BIS indicated that Aircraft 1–3 continued to be flown on Mahan Airways' routes after issuance of the TDO, in violation of the Regulations and the TDO itself.[11] It also showed that Aircraft 1–3 had been flown in further violation of the Regulations and the TDO on the routes of Iran Air, an Iranian Government airline. Moreover, as discussed in the March 16, 2009, September 11, 2009, and March 9, 2010 renewal orders, Mahan Airways registered Aircraft 1–3 in Iran, obtained Iranian tail numbers for them (EP–MNA, EP–MNB, and EP–MNE, respectively), and continued to operate at least two of them in violation of the Regulations and the TDO,[12] while also committing an additional knowing and willful violation when it negotiated for and acquired an additional U.S.-origin aircraft. The additional acquired aircraft was an MD–82 aircraft, which subsequently was painted in Mahan Airways' livery and flown on multiple Mahan Airways' routes under tail number TC–TUA.

The March 9, 2010 renewal order also noted that a court in the United Kingdom (''U.K.'') had found Mahan

during the seven-year denial order period. This denial order, in effect, superseded the TDO as to Gatewick, which was not included as part of the January 16, 2015 renewal order. The Gatewick LLC Final Order was published in the **Federal Register** on August 20, 2014. *See* 79 FR 49283 (Aug. 20, 2014).

[7] Zarand Aviation's export privileges remained denied until July 22, 2014, when it was not included as part of the renewal order issued on that date.

[8] The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') designated Sky Blue Bird and Issam Shammout as Specially Designated Global Terrorists (''SDGTs'') on May 21, 2015, pursuant to Executive Order 13224, for ''providing support to Iran's Mahan Air.'' *See* 80 FR 30762 (May 29, 2015).

[9] The November 16, 2017 modification was published in the **Federal Register** on December 4, 2017. *See* 82 FR 57203 (Dec. 4, 2017). On September 28, 2017, BIS and Ali Eslamian resolved an administrative charge for acting contrary to the terms of the denial order (15 CFR 764.2(k)) that was based upon Eslamian's violation of the TDO after his addition to the TDO on August 24, 2011. Equipco (UK) Ltd. and Skyco (UK) Ltd., two companies owned and operated by Eslamian, also were parties to the settlement agreement and were added to the settlement order as related persons. In addition to other sanctions, the settlement provides that Eslamian, Equipco, and Skyco shall be subject to a conditionally-suspended denial order for a period of four years from the date of the settlement order.

[10] A party named or added as a related person may not oppose the issuance or renewal of the underlying temporary denial order, but may file an appeal of the related person determination in accordance with Section 766.23(c). *See* also note 2, *supra.*

[11] Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

[12] The third Boeing 747 appeared to have undergone significant service maintenance and may not have been operational at the time of the March 9, 2010 renewal order.

Airways in contempt of court on February 1, 2010, for failing to comply with that court's December 21, 2009 and January 12, 2010 orders compelling Mahan Airways to remove the Boeing 747s from Iran and ground them in the Netherlands. Mahan Airways and the Balli Group Respondents had been litigating before the U.K. court concerning ownership and control of Aircraft 1–3. In a letter to the U.K. court dated January 12, 2010, Mahan Airways' Chairman indicated, *inter alia,* that Mahan Airways opposes U.S. Government actions against Iran, that it continued to operate the aircraft on its routes in and out of Tehran (and had 158,000 ''forward bookings'' for these aircraft), and that it wished to continue to do so and would pay damages if required by that court, rather than ground the aircraft.

The September 3, 2010 renewal order discussed the fact that Mahan Airways' violations of the TDO extended beyond operating U.S.-origin aircraft and attempting to acquire additional U.S.-origin aircraft. In February 2009, while subject to the TDO, Mahan Airways participated in the export of computer motherboards, items subject to the Regulations and designated as EAR99, from the United States to Iran, via the United Arab Emirates (''UAE''), in violation of both the TDO and the Regulations, by transporting and/or forwarding the computer motherboards from the UAE to Iran. Mahan Airways' violations were facilitated by Gatewick LLC, which not only participated in the transaction, but also has stated to BIS that it acted as Mahan Airways' sole booking agent for cargo and freight forwarding services in the UAE.

Moreover, in a January 24, 2011 filing in the U.K. court, Mahan Airways asserted that Aircraft 1–3 were not being used, but stated in pertinent part that the aircraft were being maintained in Iran ''in an airworthy condition'' and that, depending on the outcome of its U.K. court appeal, the aircraft ''could immediately go back into service . . . on international routes into and out of Iran.'' Mahan Airways' January 24, 2011 submission to U.K. Court of Appeal, at p. 25, ¶¶ 108, 110. This clearly stated intent, both on its own and in conjunction with Mahan Airways' prior misconduct and statements, demonstrated the need to renew the TDO in order to prevent imminent future violations. Two of these three 747s subsequently were removed from Iran and are no longer in Mahan Airways' possession. The third of these 747s remained in Iran under Mahan's control. Pursuant to Executive Order 13224, this 747 was designated a Specially Designated Global Terrorist (''SDGT'') by the U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') on September 19, 2012.[13] Furthermore, as discussed in the February 4, 2013 Order, open source information indicated that this 747, painted in the livery and logo of Mahan Airways, had been flown between Iran and Syria, and was suspected of ferrying weapons and/or other equipment to the Syrian Government from Iran's Islamic Revolutionary Guard Corps.

In addition, as first detailed in the July 1, 2011 and August 24, 2011 orders, and discussed in subsequent renewal orders in this matter, Mahan Airways also continued to evade U.S. export control laws by operating two Airbus A310 aircraft, bearing Mahan Airways' livery and logo, on flights into and out of Iran.[14] At the time of the July 1, 2011 and August 24, 2011 orders, these Airbus A310s were registered in France, with tail numbers F–OJHH and F–OJHI, respectively.[15] The August 2012 renewal order also found that Mahan Airways had acquired another Airbus A310 aircraft subject to the Regulations, with MSN 499 and Iranian tail number EP–VIP, in violation of the Regulations.[16] On September 19, 2012, all three Airbus A310 aircraft (tail numbers F–OJHH, F–OJHI, and EP–VIP) were designated as SDGTs.[17]

The February 4, 2013 renewal order laid out further evidence of continued and additional efforts by Mahan Airways and other persons acting in concert with Mahan, including Kral Aviation and another Turkish company, to procure U.S.-origin engines—two GE CF6–50C2 engines, with MSNs 517621 and 517738, respectively—and other aircraft parts in violation of the TDO and the Regulations.[18] The February 4, 2013 order also added Mehdi Bahrami as a related person in accordance with Section 766.23 of the Regulations. Bahrami, a Mahan Vice-President and the head of Mahan's Istanbul Office, also was involved in Mahan's acquisition of the original three Boeing 747s (Aircraft 1–3) that resulted in the original TDO, and has had a business relationship with Mahan dating back to 1997.

The July 31, 2013 renewal order detailed additional evidence obtained by OEE showing efforts by Mahan Airways to obtain another GE CF6–50C2 aircraft engine (MSN 528350) from the United States via Turkey. Multiple Mahan employees, including Mehdi Bahrami, were involved in or aware of matters related to the engine's arrival in Turkey from the United States, plans to visually inspect the engine, and prepare it for shipment from Turkey.

Mahan Airways sought to obtain this U.S.-origin engine through Pioneer Logistics Havacilik Turizm Yonetim Danismanlik (''Pioneer Logistics''), an aircraft parts supplier located in Turkey, and its director/operator, Gulnihal Yegane, a Turkish national who previously had conducted Mahan related business with Mehdi Bahrami and Ali Eslamian. Moreover, as referenced in the July 31, 2013 renewal order, a sworn affidavit by Kosol Surinanda, also known as Kosol Surinandha, Managing Director of Mahan's General Sales Agent in Thailand, stated that the shares of Pioneer Logistics for which he was the listed owner were ''actually the property of and owned by Mahan.'' He further

[13] *See http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx.*

[14] The Airbus A310s are powered with U.S.-origin engines. The engines are subject to the Regulations and classified under Export Control Classification (''ECCN'') 9A991.d. The Airbus A310s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the Regulations. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[15] OEE subsequently presented evidence that after the August 24, 2011 renewal, Mahan Airways worked along with Kerman Aviation and others to de-register the two Airbus A310 aircraft in France and to register both aircraft in Iran (with, respectively, Iranian tail numbers EP–MHH and EP–MHI). It was determined subsequent to the February 15, 2012 renewal order that the registration switch for these A310s was cancelled and that Mahan Airways then continued to fly the aircraft under the original French tail numbers (F–OJHH and F–OJHI, respectively). Both aircraft apparently remain in Mahan Airways' possession.

[16] *See* note 14, *supra.*

[17] *See http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx.* Mahan Airways was previously designated by OFAC as a SDGT on October 18, 2011. 77 FR 64427 (October 18, 2011).

[18] Kral Aviation was referenced in the February 4, 2013 renewal order as ''Turkish Company No. 1.'' Kral Aviation purchased a GE CF6–50C2 aircraft engine (MSN 517621) from the United States in July 2012, on behalf of Mahan Airways. OEE was able to prevent this engine from reaching Mahan by issuing a redelivery order to the freight forwarder in accordance with Section 758.8 of the Regulations. OEE also issued Kral Aviation a redelivery order for the second CF6–50C2 engine (MSN 517738) on July 30, 2012. The owner of the second engine subsequently cancelled the item's sale to Kral Aviation. In September 2012, OEE was alerted by a U.S. exporter that another Turkish company (''Turkish Company No. 2'') was attempting to purchase aircraft spare parts intended for re-export by Turkish Company No. 2 to Mahan Airways. *See* February 4, 2013 renewal order.

On December 31, 2013, Kral Aviation was added to BIS's Entity List, Supplement No. 4 to Part 744 of the Regulations. *See* 78 FR 75458 (Dec. 12, 2013). Companies and individuals are added to the Entity List for engaging in activities contrary to the national security or foreign policy interests of the United States. *See* 15 CFR 744.11.

stated that he held ''legal title to the shares until otherwise required by Mahan'' but would ''exercise the rights granted to [him] exactly and only as instructed by Mahan and [his] vote and/or decisions [would] only and exclusively reflect the wills and demands of Mahan[.]'' [19]

The January 24, 2014 renewal order outlined OEE's continued investigation of Mahan Airways' activities and detailed an attempt by Mahan, which OEE thwarted, to obtain, via an Indonesian aircraft parts supplier, two U.S.-origin Honeywell ALF–502R–5 aircraft engines (MSNs LF5660 and LF5325), items subject to the Regulations, from a U.S. company located in Texas. An invoice of the Indonesian aircraft parts supplier dated March 27, 2013, listed Mahan Airways as the purchaser of the engines and included a Mahan ship-to address. OEE also obtained a Mahan air waybill dated March 12, 2013, listing numerous U.S.-origin aircraft parts subject to the Regulations—including, among other items, a vertical navigation gyroscope, a transmitter, and a power control unit—being transported by Mahan from Turkey to Iran in violation of the TDO.

The July 22, 2014 renewal order discussed open source evidence from the March-June 2014 time period regarding two BAE regional jets, items subject to the Regulations, that were painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP–MOI and EP–MOK, respectively.[20] In addition, aviation industry resources indicated that these aircraft were obtained by Mahan Airways in late November 2013 and June 2014, from Ukrainian Mediterranean Airline, a Ukrainian airline that was added to BIS's Entity List (Supplement No. 4 to Part 744 of the Regulations) on August 15, 2011, for acting contrary to the national security and foreign policy interests of the United States.[21] Open source information indicated that at least EP–MOI remained active in Mahan's fleet, and that the aircraft was being operated on multiple flights in July 2014.

The January 16, 2015 renewal order detailed evidence of additional attempts by Mahan Airways to acquire items subject the Regulations in further violation of the TDO. Specifically, in March 2014, OEE became aware of an inertial reference unit bearing serial number 1231 (''the IRU'') that had been sent to the United States for repair. The IRU is a U.S.-origin item, subject to the Regulations, classified under ECCN 7A103, and controlled for missile technology reasons. Upon closer inspection, it was determined that IRU came from or had been installed on an Airbus A340 aircraft bearing MSN 056. Further investigation revealed that as of approximately February 2014, this aircraft was registered under Iranian tail number EP–MMB and had been painted in the livery and logo of Mahan Airways.

The January 16, 2015 renewal order also described related efforts by the Departments of Justice and Treasury to further thwart Mahan's illicit procurement efforts. Specifically, on August 14, 2014, the United States Attorney's Office for the District of Maryland filed a civil forfeiture complaint for the IRU pursuant to 22 U.S.C. 401(b) that resulted in the court issuing an Order of Forfeiture on December 2, 2014. EP–MMB remains listed as active in Mahan Airways' fleet and has been used on flights into and out of Iran as recently as December 19, 2017.

Additionally, on August 29, 2014, OFAC blocked the property and interests in property of Asian Aviation Logistics of Thailand, a Mahan Airways affiliate or front company, pursuant to Executive Order 13224. In doing so, OFAC described Mahan Airways' use of Asian Aviation Logistics to evade sanctions by making payments on behalf of Mahan for the purchase of engines and other equipment.[22]

The May 21, 2015 modification order detailed the acquisition of two aircraft, specifically an Airbus A340 bearing MSN 164 and an Airbus A321 bearing MSN 550, that were purchased by Al Naser Airlines in late 2014/early 2015 and were under the possession, control, and/or ownership of Mahan Airways.[23] The sales agreements for these two aircraft were signed by Ali Abdullah Alhay for Al Naser Airlines.[24] Payment information reveals that multiple electronic funds transfers (''EFT'') were made by Ali Abdullah Alhay and Bahar Safwa General Trading in order to acquire MSNs 164 and 550.

The May 21, 2015 modification order also laid out evidence showing the respondents' attempts to obtain other controlled aircraft, including aircraft physically located in the United States in similarly-patterned transactions during the same recent time period. Transactional documents involving two Airbus A320s bearing MSNs 82 and 99, respectively, again showed Ali Abdullah Alhay signing sales agreements for Al Naser Airlines.[25] A review of the payment information for these aircraft similarly revealed EFTs from Ali Abdullah Alhay and Bahar Safwa General Trading that follow the pattern described for MSNs 164 and 550, *supra.* MSNs 82 and 99 were detained by OEE Special Agents prior to their planned export from the United States.

The July 13, 2015 renewal order outlined evidence showing that Al Naser Airlines' attempts to acquire aircraft on behalf of Mahan Airways extended beyond MSNs 164 and 550 to

[19] Pioneer Logistics, Gulnihal Yegane, and Kosol Surinanda also were added to the Entity List on December 12, 2013. *See* 78 FR 75458 (Dec. 12, 2013).

[20] The BAE regional jets are powered with U.S.-origin engines. The engines are subject to the EAR and classified under ECCN 9A991.d. These aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[21] *See* 76 FR 50407 (Aug. 15, 2011). The July 22, 2014 renewal order also referenced two Airbus A320 aircraft painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP–MMK and EP–MML, respectively. OEE's investigation also showed that Mahan obtained these aircraft in November 2013, from Khors Air Company, another Ukrainian airline that, like Ukrainian Mediterranean Airlines, was added to BIS's Entity List on August 15, 2011. Open source evidence indicates the two Airbus A320 aircraft may have been transferred by Mahan Airways to another Iranian airline in October 2014, and issued Iranian tail numbers EP–APE and EP–APF, respectively.

[22] *See http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140829.aspx. See* 79 FR 55073 (Sep. 15, 2014). OFAC also blocked the property and property interests of Pioneer Logistics of Turkey on August 29, 2014. *Id.* Mahan Airways' use of Pioneer Logistics in an effort to evade the TDO and the Regulations was discussed in a prior renewal order, as summarized, *supra,* at 14. BIS added both Asian Aviation Logistics and Pioneer Logistics to the Entity List on December 12, 2013. *See* 78 FR 75458 (Dec. 12, 2013).

[23] Both of these aircraft are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. Both aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[24] The evidence obtained by OEE showed Ali Abdullah Alhay as a 25% owner of Al Naser Airlines.

[25] Both aircraft were physically located in the United States and therefore are subject to the Regulations pursuant to Section 734.3(a)(1). Moreover, these Airbus A320s are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number ECCN 9A991.d. The Airbus A320s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

include a total of nine aircraft.[26] Four of the aircraft, all of which are subject to the Regulations and were obtained by Mahan from Al Naser Airlines, had been issued the following Iranian tail numbers: EP–MMD (MSN 164), EP–MMG (MSN 383), EP–MMH (MSN 391) and EP–MMR (MSN 416), respectively.[27] Publicly available flight tracking information provided evidence that at the time of the July 13, 2015 renewal, both EP–MMH and EP–MMR were being actively flown on routes into and out of Iran in violation of the Regulations.[28]

The January 7, 2016 renewal order discussed evidence that Mahan Airways had begun actively flying EP–MMD on international routes into and out of Iran. Additionally, the January 7, 2016 order described publicly available aviation database and flight tracking information indicating that Mahan Airways continued efforts to acquire Iranian tail numbers and press into active service under Mahan's livery and logo at least two more of the Airbus A340 aircraft it had obtained from or through Al Naser Airlines: EP–MME (MSN 371) and EP–MMF (MSN 376), respectively.

The July 7, 2016 renewal order described Mahan Airways' acquisition of a BAE Avro RJ–85 aircraft (MSN 2392) in violation of the Regulations and its subsequent registration under Iranian tail number EP–MOR.[29] This information was corroborated by publicly available information on the website of Iran's civil aviation authority. The July 7, 2016 order also outlined Mahan's continued operation of EP–MMF in violation of the Regulations on routes from Tehran, Iran to Beijing, China and Shanghai, China, respectively.

The December 30, 2016 renewal order outlined Mahan's continued operation of multiple Airbus aircraft, including EP–MMD (MSN 164), EP–MMF (MSN 376), and EP–MMH (MSN 391), which were acquired from or through Al Naser Airlines, as previously detailed in pertinent part in the July 13, 2015 and January 7, 2016 renewal orders. Publicly available flight tracking information showed that the aircraft were operated on flights into and out of Iran, including from/to Beijing, China, Kuala Lumpur, Malaysia, and Istanbul, Turkey.[30]

The June 27, 2017 renewal order included similar evidence regarding Mahan Airways' operation of multiple Airbus aircraft subject to the Regulations, including, but not limited to, aircraft procured from or through Al Naser Airlines, on flights into and out of Iran, including from/to Moscow, Russia, Shanghai, China and Kabul, Afghanistan. The June 27, 2017 order also detailed evidence concerning a suspected planned or attempted diversion to Mahan of an Airbus A340 subject to the Regulations that had first been mentioned in OEE's December 13, 2016 renewal request.

The December 20, 2017 renewal order presented evidence that a Mahan employee attempted to initiate negotiations with a U.S. company for the purchase of an aircraft subject to the Regulations and classified under ECCN 9A610. Moreover, the order highlighted Al Naser Airlines' acquisition, via lease, of at least possession and/or control of a Boeing 737 (MSN 25361), bearing tail number YR–SEB, and an Airbus A320 (MSN 357), bearing tail number YR–SEA, from a Romanian company in violation of the TDO and the Regulations.[31] Open source information indicates that after the December 20, 2017 renewal order publicly exposed Al Naser's acquisition of these two aircraft (MSNs 25361 and 357), the leases were subsequently cancelled and the aircraft returned to their owner.

The December 20, 2017 renewal order also included evidence indicating that Mahan Airways was continuing to operate a number of aircraft subject to the Regulations, including aircraft originally procured from or through Al Naser Airlines, on flights into and out of Iran, including from/to Lahore, Pakistan, Shanghai, China, Ankara, Turkey, Kabul, Afghanistan, and Baghdad, Iraq.

The June 14, 2018 renewal order outlined evidence that Mahan began actively operating EP–MMT, an Airbus A340 aircraft (MSN 292) acquired in 2017 and previously registered in Kazakhstan under tail number UP–A4003, on international flights into and out of Iran.[32] It also discussed evidence that Mahan continued to operate a number of aircraft subject to the Regulations, including, but not limited to, EP–MME, EP–MMF, and EP–MMH, on international flights into and out of Iran, including from/to Beijing, China.

The June 14, 2018 renewal order also noted OFAC's May 24, 2018 designation of Otik Aviation, a/k/a Otik Havacilik Sanayi Ve Ticaret Limited Sirketi, of Turkey, as an SDGT pursuant to Executive Order 13224, for providing material support to Mahan, as well as OFAC's designation as SDGTs of an additional twelve aircraft in which Mahan has an interest.[33] The June 14,

[26] This evidence included a press release dated May 9, 2015, that appeared on Mahan Airways' website and stated that Mahan ''added 9 modern aircraft to its air fleet [,]'' and that the newly acquired aircraft included eight Airbus A340s and one Airbus A321. *See http://www.mahan.aero/en/mahan-air/press-room/44.* The press release was subsequently removed from Mahan Airways' website. Publicly available aviation databases similarly showed that Mahan had obtained nine additional aircraft from Al Naser Airlines in May 2015, including MSNs 164 and 550. As also discussed in the July 13, 2015 renewal order, Sky Blue Bird Group, via Issam Shammout, was actively involved in Al Naser Airlines' acquisition of MSNs 164 and 550, and the attempted acquisition of MSNs 82 and 99 (which were detained by OEE).

[27] The Airbus A340s are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The Airbus A340s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[28] There is some publicly available information indicating that the aircraft Mahan Airways is flying under Iranian tail number EP–MMR is now MSN 615, rather than MSN 416. Both aircraft are Airbus A340 aircraft that Mahan acquired from Al Naser Airlines in violation of the Regulations. Moreover, both aircraft were designated as SDGTs by OFAC on May 21, 2015, pursuant to Executive Order 13224. *See* 80 FR 30762 (May 29, 2015).

[29] The BAE Avro RJ–85 is powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The BAE Avro RJ–85 contains controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result is subject to the EAR regardless of its location. The aircraft is classified under ECCN 9A991.b, and its export or re-export to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[30] Specifically, on December 22, 2016, EP–MMD (MSN 164) flew from Dubai, UAE to Tehran, Iran. Between December 20 and December 22, 2016, EP–MMF (MSN 376) flew on routes from Tehran, Iran to Beijing, China and Istanbul, Turkey, respectively. Between December 26 and December 28, 2016, EP–MMH (MSN 391) flew on routes from Tehran, Iran to Kuala Lumpur, Malaysia.

[31] The Airbus A320 is powered with U.S.-origin engines, which are subject to the EAR and classified under Export Control Classification (''ECCN'') 9A991.d. The engines are valued at more than 10 percent of the total value of the aircraft, which consequently is subject to the EAR. The aircraft is classified under ECCN 9A991.b, and its export or reexport to Iran would require U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[32] The Airbus A340 is powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The Airbus A340 contains controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result is subject to the Regulations regardless of its location. The aircraft is classified under ECCN 9A991.b. The export or re-export of this aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations. On June 4, 2018, EP–MMT (MSN 292) flew from Bangkok, Thailand to Tehran, Iran.

[33] *See* 83 FR 27828 (June 14, 2018). OFAC's related press release stated in part that ''[o]ver the last several years, Otik Aviation has procured and delivered millions of dollars in aviation-related spare and replacement parts for Mahan Air, some of which are procured from the United States and the European Union. As recently as 2017, Otik Aviation continued to provide Mahan Air with replacement parts worth well over $100,000 per

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2018 order also cited the April 2018 arrest and arraignment of a U.S. citizen on a three-count criminal information filed in the United States District Court for the District of New Jersey involving the unlicensed exports of U.S.-origin aircraft parts valued at over $2 million to Iran, including to Mahan Airways.

The December 11, 2018 renewal order detailed publicly available information showing that Mahan Airways had continued operating a number of aircraft subject to the EAR, including, but not limited to, EP–MMB, EP–MME, EP–MMF, and EP–MMQ, on international flights into and out of Iran from/to Istanbul, Turkey, Guangzhou, China, Bangkok, Thailand, and Dubai, UAE.[34] It also discussed that OEE's continued investigation of Mahan Airways and its affiliates and agents had resulted in an October 2018 guilty plea by Arzu Sagsoz, a Turkish national, in the U.S. District Court for the District of Columbia, stemming from her involvement in a conspiracy to export a U.S.-origin aircraft engine, valued at approximately $810,000, to Mahan.

The December 11, 2018 order also noted OFAC's September 14, 2018 designation of Mahan-related entities as SDGTs pursuant to Executive Order 13224, namely, My Aviation Company Limited, of Thailand, and Mahan Travel and Tourism SDN BHD, a/k/a Mahan Travel a/k/a Mihan Travel & Tourism SDN BHD, of Malaysia.[35] As general sales agents for Mahan Airways, these companies sold cargo space aboard Mahan Airways' flights, including on flights to Iran, and provided other services to or for the benefit of Mahan Airways and its operations.[36]

The June 5, 2019 renewal order highlighted Mahan's continued violation of the TDO and the Regulations. An end-use check conducted by BIS in Malaysia in March 2019 uncovered evidence that, on approximately ten occasions, Mahan had caused, aided and/or abetted the unlicensed export of U.S.-origin items subject to the Regulations from the United States to Iran via Malaysia. The items included helicopter shafts, transmitters, and other aircraft parts, some of which are listed on the Commerce Control List and controlled on anti-terrorism grounds. The June 5, 2019 order also detailed publicly available flight tracking information showing that Mahan continued to unlawfully operate a number of aircraft subject to the EAR on flights into and out of Iran, including on routes to and from Damascus, Syria. [37]

The June 5, 2019 order also described actions taken by both BIS and OFAC to thwart efforts by entities connected to or acting on behalf of Mahan Airways to violate U.S. export controls and sanctions related to Iran. On May 14, 2019, BIS added Manohar Nair, Basha Asmath Shaikh, and two co-located companies that they operate, Emirates Hermes General Trading and Presto Freight International, LLC, to the Entity List pursuant to Section 744.11 of the Regulations, including for engaging in activities to procure U.S.-origin items on Mahan's behalf.[38] On January 24, 2019, OFAC designated as SDGTs Flight Travel LLC, which is Mahan's general service agent in Yerevan, Armenia, and Qeshm Fars Air, an Iranian airline which operates two U.S.-origin Boeing 747s [39] and is owned or controlled by Mahan, and also linked to the Islamic Revolutionary Guard Corps-Qods Force (IRGC–QF).[40]

The December 2, 2019 renewal order noted that OEE's on-going investigation revealed that U.S.-origin passenger flight and database management software subject to the Regulations was provided to a company in Turkey and subsequently used to facilitate and service Mahan's operations into and out of Turkey in further violation of the Regulations.

Additionally, open source information, including flight tracking data and news articles published in October 2019, showed that Mahan Airways was now operating a U.S.-origin Boeing 747 on routes between Iranian airports in Tehran, Kish Island, and Mashhad. This aircraft, bearing Iranian tail number EP–MNB, appears to be one of the three aircraft that Mahan illegally acquired via Blue Airways of Armenia and U.K.-based Balli Group that resulted in the issuance of the original TDO.[41] *See supra* at 10–12.

Evidence was also described in the December 2, 2019 renewal order showing that on or about November 11, 2019, Mahan caused, aided and/or abetted the unlicensed export of a U.S.-origin atomic absorption spectrometer, an item subject to the Regulations, from the United States to Iran via the UAE. Finally, publicly available flight tracking information showed that Mahan continued to unlawfully operate a number of aircraft subject to the EAR on flights into and out of Iran, including on routes to and from Guangzhou, China, Istanbul, Turkey, and Kuala Lumpur, Malaysia.[42]

The May 29, 2020 renewal order cited Mahan's operation of EP–MMD, EP–MMF, and EP–MMI, aircraft originally acquired from Al Naser Airlines, on international flights into and out of Iran from/to Bangkok, Thailand, Dubai, UAE, and Shanghai, China in violation of the

shipment, such as aircraft brakes.'' The twelve additional Mahan-related aircraft that were designated are: EP–MMA (MSN 20), EP–MMB (MSN 56), EP–MMC (MSN 282), EP–MMJ (MSN 526), EP–MMV (MSN 2079), EP–MNF (MSN 547), EP–MOD (MSN 3162), EP–MOM (MSN 3165), EP–MOP (MSN 2257), EP–MOQ (MSN 2261), EP–MOR (MSN 2392), and EP–MOS (MSN 2347). *See https://home.treasury.gov/news/press-releases/sm0395. See also https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180524.aspx.*

[34] Flight tracking information showed that on December 10, 2018, EP–MMB (MSN 56) flew from Istanbul, Turkey to Tehran, Iran, and EP–MME (MSN 371) flew from Guangzhou, China to Tehran, Iran. Additionally, on December 6, 2018, EP–MMF (MSN 376) flew from Bangkok, Thailand to Tehran, Iran, and on December 9, 2018, EP–MMQ (MSN 449) flew on routes between Dubai, United Arab Emirates and Tehran, Iran.

[35] *See* 83 FR 34301 (July 19, 2018) (designation of Mahan Travel and Tourism SDN BHD on July 9, 2018), and 83 FR 53359 (Oct. 22, 2018) (designation of My Aviation Company Limited and updating of entry for Mahan Travel and Tourism SDN BHD on September 14, 2018).

[36] OFAC's press release concerning its designation of My Aviation Company Limited on September 14, 2018, states in part that ''[t]his Thailand-based company has disregarded numerous U.S. warnings, issued publicly and delivered bilaterally to the Thai government, to sever ties with Mahan Air.'' My Aviation provides cargo services to Mahan Airways, including freight booking, and works with local freight forwarding entities to ship cargo on regularly-scheduled Mahan Airways' flights to Tehran, Iran. My Aviation has also provided Mahan Airways with passenger booking services. *See https://home.treasury.gov/news/press-releases/sm484.*

[37] Specifically, on May 26, 2019, EP–MMJ (MSN 526) flew from Damascus, Syria to Tehran, Iran. In addition, on May 24, 2019, EP–MNF (MSN 547) flew on routes between Moscow, Russia and Tehran, and on May 23, 2019, EP–MMF (MSN 376) flew from Dubai, UAE to Tehran.

[38] *See* 84 FR 21233 (May 14, 2019).

[39] These 747s are registered in Iran with tail numbers EP–FAA and EP–FAB, respectively.

[40] OFAC's press release concerning these designations states that Qeshm Fars Air was being designated for ''being owned or controlled by Mahan Air, as well as for assisting in, sponsoring, or providing financial, material or technological support for, or financial or other services to or in support of, the IRGC–QF,'' and that Flight Travel LLC was being designated for ''acting for or on behalf of Mahan Air.'' It further states, *inter alia,* that ''Mahan Air employees fill Qeshm Fars Air management positions, and Mahan Air provides technical and operational support for Qeshm Fars Air, facilitating the airline's illicit operations.'' *See https://home.treasury.gov/news/press-releases/sm590. See also https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190124.aspx.*

[41] The same open sources indicated this aircraft continued to operate on flights within Iran to include a May 11, 2020 flight from Tehran, Iran to Kerman, Iran.

[42] Publicly available flight tracking information shows that on November 23, 2019, EP–MME (MSN 371) flew from Guangzhou, China to Tehran, Iran, and on November 21, 2019, EP–MMF (MSN 376) flew on routes between Istanbul, Turkey and Tehran, Iran. Additionally, on November 20, 2019, EP–MMQ (MSN 449) flew from Kuala Lumpur, Malaysia, to Tehran, Iran.

TDO and EAR.[43] The May 29, 2020 renewal order also detailed the indictment of Ali Abdullah Alhay and Issam Shammout, parties added to the TDO in May and July 2015, respectively, in the United States District Court for the District of Columbia. Alhay and Shammout were charged with, among other violations, conspiring to export aircraft and parts to Mahan in violation of export control laws and the embargo on Iran beginning around August 2012 through May 2015.

In addition to detailing the operation of multiple aircraft in violation of the Regulations,[44] the November 24, 2020 renewal order discussed a related TDO issued on August 19, 2020, denying for 180 days the export privileges of Indonesia-based PT MS Aero Support (''PTMS Aero''), PT Antasena Kreasi (''PTAK''), PT Kandiyasa Energi Utama (''PTKEU''), Sunarko Kuntjoro, Triadi Senna Kuntjoro, and Satrio Wiharjo Sasmito based on their involvement in the unlicensed export of aircraft parts to Mahan Airways—often in coordination with Mustafa Ovieci, a Mahan executive.[45] These parties also facilitated the shipment of damaged Mahan parts to the United States for repair and subsequent export back to Iran in further violation of U.S. laws. In both instances, the fact that the items were destined to Iran/Mahan was concealed from U.S. companies, shippers, and freight forwarders.[46]

The November 24, 2020 renewal order also included actions taken by other U.S. government agencies such as OFAC's August 19, 2020 designation of UAE-based Parthia Cargo, its CEO Amin Mahdavi, and Delta Parts Supply FZC as SDGTs pursuant to Executive Order 13224 for providing ''key parts and logistics services for Mahan Air. . . .'' The OFAC press release further states, in part, that Mahdavi ''has directly coordinated the shipment of parts on behalf of Mahan Air.'' [47] In addition, Mahdavi and Parthia Cargo were indicted in the United States District Court for the District of Columbia for violating sanctions on Iran.[48]

Moreover, in October 2020, the U.S. District Court for the District of New Jersey sentenced Joyce Eliasbachus to 18 months of confinement based on her role in a conspiracy to export $2 million dollars' worth of aircraft parts from the United States to Iran, including to Mahan Airways.[49]

The May 21, 2021 renewal order outlined Mahan's continued operation of a number of aircraft subject to the EAR, including, but not limited to, EP–MMH, EP–MMI, and EP–MMQ, on international flights into and out of Iran from/to Shanghai, China, and Dubai, United Arab Emirates, and Guangzhou, China, respectively.[50]

Open source news reporting also indicated that after five years of maintenance, Mahan Air is now operating EP–MNE, a Boeing 747 on domestic flights within Iran.[51] In addition to this aircraft being one of the original three Boeing aircraft Mahan obtained in violation of the Regulations, any service or maintenance involving parts subject to the EAR would further violate the TDO.

OEE's on-going investigation since the May 21, 2021 renewal order further demonstrates the nature of Mahan's prior actions and its continued actions in violation of the TDO and the Regulations, both directly and through its widespread network of procurement agents, front companies, and intermediaries.

Mahan continues to operate a number of aircraft subject to the EAR, including, but not limited to EP–MME, EP–MMJ, EP–MMQ, on flights into and out of Iran from/to Istanbul, Turkey, and Dubai, United Arab Emirates, and Shenzhen, China, respectively.[52] Additionally, publicly available industry sources show that EP–MMG (MSN 383), an aircraft that Mahan acquired from Al Naser Air in violation of both the TDO and Regulations, is currently in a maintenance, repair, overhaul (''MRO'') status at Iran's Imam Khomeini International Airport in Tehran, Iran. Among, other restrictions, the TDO prohibits third parties from servicing items subject to the Regulations that are controlled by a denied party, which raises concerns of current and future violations absent the renewal of the TDO.

Through these prior and on-going investigative efforts, OEE and its law enforcement partners are working to disrupt Mahan's illicit acquisition of aircraft and parts as well as its role in transporting or forwarding such items.

*C. Findings*

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that the denied persons have acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should continue to avoid dealing with Mahan Airways and Al Naser Airlines and the other denied persons, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

## III. Order

*It is therefore ordered:*

First, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai,

[43] Publicly available flight tracking information shows that on May 8, 2020, EP–MMD (MSN 164) flew on routes between Bangkok, Thailand and Tehran, Iran, and on May 10, 2020, EP–MMF (MSN 376) flew on routes between Dubai, UAE and Tehran. In addition, on May 9, 2020, EP–MMI (MSN 416) flew on routes between Shanghai, China and Tehran.

[44] Publicly available flight tracking information shows that on November 13, 2020, EP–MMQ (MSN 449) flew on routes between Istanbul, Turkey and Tehran, Iran, and on November 15, 2020, EP–MMI (MSN 416) flew on routes between Shenzhen, China and Tehran.

[45] *See* 85 FR 52321 (Aug. 25, 2020).

[46] PTMS Aero, PTAK, PTKEU, and Sunarko Kuntjoro were each indicted in December 2019 on multiple counts related to this conspiracy in the United States District Court for the District of Columbia.

[47] *https://home.treasury.gov/news/press-releases/sm1098.*

[48] *https://www.justice.gov/opa/pr/iranian-national-and-uae-business-organization-charged-criminal-conspiracy-violate-iranian.*

[49] Eliasbachus' arrest and arraignment were detailed in the June 14, 2018 renewal order, as described *supra* at 21.

[50] Publicly available flight tracking information shows that on May 14, 2021, EP–MMH (MSN 391) flew on routes between Shanghai, China and Tehran, Iran, and on May 13, 2021, EP–MMI (MSN 416) flew on routes between Dubai, United Arab Emirates and Tehran. In addition, on May 20, 2021, EP–MMQ (MSN 346) flew on routes between Guangzhou, China and Tehran.

[51] *https://simpleflying.com/mahan-air-747-300-flies-again/.*

[52] Publicly available flight tracking information shows that on November 7, 2021, EP–MME (MSN 376) flew on routes between Istanbul, Turkey and Tehran, Iran, and on November 9, 2021, EP–MMJ (MSN 526) flew on routes between Dubai, United Arab Emirates and Tehran, Iran. In addition, on November 8, 2021, EP–MMQ (MSN 346) flew on routes between Shenzhen, China and Tehran, Iran.

United Arab Emirates; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; MEHDI BAHRAMI, Mahan Airways-Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; AL NASER AIRLINES A/K/A AL–NASER AIRLINES A/K/A AL NASER WINGS AIRLINE A/K/A ALNASER AIRLINES AND AIR FREIGHT LTD., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates, and P.O. Box 911399, Amman 11191, Jordan; ALI ABDULLAH ALHAY A/K/A ALI ALHAY A/K/A ALI ABDULLAH AHMED ALHAY, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177; BAHAR SAFWA GENERAL TRADING, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates; SKY BLUE BIRD GROUP A/K/A SKY BLUE BIRD AVIATION A/K/A SKY BLUE BIRD LTD A/K/A SKY BLUE BIRD FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates; and ISSAM SHAMMOUT A/K/A MUHAMMAD ISAM MUHAMMAD ANWAR NUR SHAMMOUT A/K/A ISSAM ANWAR, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria, and Al Kolaa, Beirut, Lebanon 151515, and 17–18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom, and Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or engaging in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by ownership, control, position of responsibility, affiliation or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) of the EAR, Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Mahan Air General Trading LLC, Mehdi Bahrami, Sky Blue Bird Group, and/or Issam Shammout may, at any time, appeal their inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading and each related person, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: November 17, 2021.

**Kevin Kurland,**

*Acting Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2021–25397 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–DT–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–428–850, A–588–880, A–580–911, A–469–824]**

### Thermal Paper From Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders

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

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the

International Trade Commission (ITC), Commerce is issuing antidumping duty orders on thermal paper from Germany, Japan, the Republic of Korea (Korea), and Spain.

**DATES:** Applicable November 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger at (202) 482–4136 (Germany); Paul Litwin at (202) 482–6002 (Japan); Kristen Ju at (202) 482–3699 (Korea); Abdul Alnoor at (202) 482–4554 (Spain); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

## Background

On September 30, 2021, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of thermal paper from Germany, Japan, Korea, and Spain.[1] On November 15, 2021, the ITC notified Commerce of its final determinations, pursuant to section 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of thermal paper from Germany, Japan, Korea, and Spain and its negative critical circumstances finding with respect to dumped imports of thermal paper from Germany and Korea.[2]

## Scope of the Orders

The product covered by these orders is thermal paper from Germany, Japan, Korea, and Spain. For a complete description of the scope of these orders, *see* the appendix to this notice.

## Antidumping Duty Orders

On November 15, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of thermal paper from Germany, Japan, Korea, and Spain.[3] Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing these antidumping duty orders. Because the ITC determined that imports of thermal paper from Germany, Japan, Korea, and Spain are materially injuring a U.S. industry, unliquidated entries of such merchandise from Germany, Japan, Korea, and Spain, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of thermal paper from Germany, Japan, Korea, and Spain. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations, as further described below, antidumping duties will be assessed on unliquidated entries of thermal paper from Germany, Japan, Korea, and Spain entered, or withdrawn from warehouse, for consumption, on or after May 12, 2021, the date of publication of the *Preliminary Determinations.*[4]

## Continuation of Suspension of Liquidation

In accordance with section 736 of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of thermal paper from Germany, Japan, Korea, and Spain. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed below. The relevant all-others rate applies to all producers or exporters not specifically listed.

## Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of thermal paper from Germany and Korea, we intend to instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated antidumping duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after February 11, 2021, (*i.e.,* 90 days prior to the date of the publication of the *Preliminary Determinations*) but before May 12, 2021 (*i.e.,* the date of publication of the *Preliminary Determinations*).

## Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of thermal paper from Germany, Japan, Korea, and Spain, Commerce extended the four-month period to six months in each of these investigations. Commerce published the preliminary determinations in these investigations on May 12, 2021.[5]

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations,* ended on November 7, 2021. Therefore, in accordance with section 733(d) of the Act, Commerce intends to instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated

[1] *See Thermal Paper from Germany: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 86 FR 54152 (September 30, 2021); *see also Thermal Paper from Japan: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 54157 (September 30, 2021); *Thermal Paper from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 86 FR 54154 (September 30, 2021); and *Thermal Paper from Spain: Final Determination of Sales at Less Than Fair Value,* 86 FR 54162 (September 30, 2021).

[2] *See* ITC Letter, ''Notification of ITC Final Determinations in Investigation Nos. 731–TA–1546–1549 (Final),'' dated November 15, 2021.

[3] *Id.*

[4] *See Thermal Paper from Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 26001 (May 12, 2021); *see also Thermal Paper from the Republic of Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 26011 (May 12, 2021); *Thermal Paper from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 26007 (May 12, 2021); and *Thermal Paper from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 26003 (May 12, 2021) (collectively, *Preliminary Determinations*).

[5] *See Preliminary Determinations.*

entries of thermal paper from Germany, Japan, Korea, and Spain entered, or withdrawn from warehouse, for consumption after November 7, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

## Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

| Exporter/producer | Estimated weighted-average dumping margin (percent) |
|---|---|
| **Germany** | |
| Papierfabrik August Koehler SE | 2.90 |
| All Others | 2.90 |
| **Japan** | |
| Nippon Paper Industries Co., Ltd./ Nippon Paper Papylia Co., Ltd. | 140.25 |
| All Others | 135.06 |
| **Korea** | |
| Hansol Paper Company | 6.19 |
| All Others | 6.19 |
| **Spain** | |
| Torraspapel S.A. | 41.45 |
| All Others | 37.07 |

## Establishment of the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[6] On September 27, 2021, Commerce also published the notice titled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[7] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[8]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [9]

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

## Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [10] Accordingly, as stated above, the petitioners and foreign governments should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for those orders for which they qualify as an interested party. Pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

## Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to thermal paper from Germany, Japan, Korea, and Spain pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html*.

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

Dated: November 16, 2021.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

## Appendix—Scope of the Orders

The scope of these orders covers thermal paper in the form of ''jumbo rolls'' and certain ''converted rolls.'' The scope covers jumbo rolls and converted rolls of thermal paper with or without a base coat (typically made of clay, latex, and/or plastic pigments, and/or like materials) on one or both sides; with thermal active coating(s) (typically made of sensitizer, dye, and co-reactant, and/or like materials) on one or both sides; with or without a top coat (typically made of pigments, polyvinyl alcohol, and/or like materials), and without an adhesive backing. Jumbo rolls are defined as rolls with an actual width of 4.5 inches or more, an actual weight of 65 pounds or more, and an actual diameter of 20 inches or more (jumbo rolls).

[6] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[7] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[8] *Id.*

[9] This segment will be combined with the ACCESS Segment Specific Information (SSI) field, which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[10] *See Final Rule,* 86 FR at 52335.

All jumbo rolls are included in the scope regardless of the basis weight of the paper. Also included in the scope are ''converted rolls'' with an actual width of less than 4.5 inches, and with an actual basis weight of 70 grams per square meter (gsm) or less.

The scope of these orders covers thermal paper that is converted into rolls with an actual width of less than 4.5 inches and with an actual basis weight of 70 gsm or less in third countries from jumbo rolls produced in the subject countries.

The merchandise subject to these orders may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8030 and 4811.90.9030. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2021–25365 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

**[Docket Number: 211116–0234]**

### Study To Advance a More Productive Tech Economy

**AGENCY:** National Institute of Standards and Technology (NIST), Commerce.

**ACTION:** Notice; request for information.

**SUMMARY:** The National Institute of Standards and Technology (NIST) is seeking information about the public and private sector marketplace trends, supply chain risks, legislative, policy, and the future investment needs of eight emerging technology areas, including: Artificial Intelligence, Internet of Things in Manufacturing, Quantum Computing, Blockchain Technology, New and Advanced Materials, Unmanned Delivery Services, Internet of Things, and Three-dimensional Printing. This Request for Information (RFI) is seeking comments to help identify, understand, refine, and guide the development of the current and future state of technology in the eight emerging technology areas named above. The information will inform a final report that will be submitted to Congress.

**DATES:** Comments in response to this notice must be received by 5:00 p.m. Eastern time on January 31, 2022. Submissions received after that date may not be considered.

Comments may be submitted by any of the following methods:

*Electronic submission:* Submit electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov* and enter NIST–2021–0007 in the search field,

2. Click the ''Comment Now!'' icon, complete the required fields, and

3. Enter or attach your comments.

Electronic submissions may also be sent as an attachment to *acastudy@nist.gov* and may be in any of the following unlocked formats: Word or PDF. Please cite ''COMPETE ACT'' and the topic area in all correspondence. If the input is provided for more than one topic area, please submit separate documents for each topic area. Comments received by the deadline may be posted at *www.regulations.gov.* Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. All submissions, including attachments and other supporting materials, may become part of the public record and may be subject to public disclosure. NIST reserves the right to publish relevant comments publicly, unedited and in their entirety. Personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Do not submit confidential business information, or otherwise sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

**FOR FURTHER INFORMATION CONTACT:** For questions about this RFI contact: Charles H. Romine, U.S. Department of Commerce, (301) 975–2900 or *Charles.Romine@nist.gov.*

Please direct media inquiries to NIST's Public Affairs Office at (301) 975–2762 or *Jennifer.Huergo@nist.gov.*

**SUPPLEMENTARY INFORMATION:** Under DIVISION FF, Title XV, § 1501 of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), the Secretary of Commerce, in coordination with the Federal Trade Commission and other federal agencies, is directed to complete a study of and issue a report on eight emerging technology areas:

- Artificial Intelligence—on the state of the artificial intelligence industry and the impact of such industry on the United States economy,
- Internet of Things in Manufacturing—on the use of internet-connected devices and internet-connected solutions in manufacturing in the United States,
- Quantum Computing—on the state of the quantum computing industry and the impact of such industry on the United States economy,
- Blockchain Technology—on the state of the blockchain technology industry and the impact of such industry on the United States economy,
- New and Advanced Materials—on the state of the new and advanced materials industry, including synthetically derived materials or those with enhanced natural properties, and the impact of such industry on the United States economy,
- Unmanned Delivery Services (both air & ground)—on the impact of unmanned delivery services on businesses conducting interstate commerce and the impact of such industry on the United States economy, rules and regulations,
- Internet of Things—on the state of the internet-connected devices industry and the impact of such industry on the United States economy, and
- Three-dimensional Printing—on the state of the three-dimensional printing industry and the impact of such industry on the United States economy.

NIST invites stakeholders throughout the scientific research, standards, advocacy, industry, and non-scientific communities, including the general public, to provide input for creating a forward-thinking approach that supports emerging technology to foster economic growth and competitiveness across the Nation in ways that benefit all Americans. NIST will develop the report in a manner consistent with its mission to promote U.S. innovation and industrial competitiveness.

**Request for Information**

The following list of topics covers the major areas about which NIST seeks information. The listed areas are not intended to limit the topics that may be addressed by respondents so long as they address the current and future issues within one or more emerging technology areas. For each emerging technology area, NIST seeks information related to: The relevant marketplaces; supply chains; legislative, policy and standards needs; and strategic public-private partnerships to enhance adoption:

*Technology Development*

- NIST seeks to gain greater awareness of the federal agencies that have jurisdiction over the emerging technology area, or with which industry interacts on issues related to the emerging technology areas.
- NIST seeks information on what the federal government could do to foster or enhance the adoption of technology or help expand economic opportunities within the emerging technology areas.
- NIST seeks to better understand the current and future needs, as well as

risks, for standards development in the emerging technology areas.

- NIST seeks information on existing standards forums in the emerging technology areas.
- NIST seeks to better understand the needs of industry in future public-private investment partnerships to foster innovation in the emerging technology areas.
- NIST seeks information on how existing legislation and/or regulations may help or hinder the maturation of the emerging technology areas in the marketplace, and any areas where new legislation and/or regulations are needed to advance the emerging technology areas in the marketplace.

*Technology Applications & Utilization*

- NIST seeks to gain greater awareness of industry's utilization of the emerging technology areas.
- NIST seeks information on strengthening regional innovation centers across the United States.
- NIST seeks information regarding the current marketplace landscape and projected changes to the marketplace with the adoption of the emerging technology areas.
- NIST seeks information on risks and long-term trends in the marketplace for the emerging technology areas.
- NIST seeks information on risks and long-term trends in supply chains within the emerging technology areas.
- NIST seeks information about how organizations identify and assess risks posed to supply chains within the emerging technology areas.
- NIST seeks information regarding foreign capability and capacity within the emerging technology areas.

**Alicia Chambers,**

*NIST Executive Secretariat.*

[FR Doc. 2021–25428 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB603]**

### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council (Pacific Council) will convene a Stock Assessment Review (STAR) Panel meeting to review the 2021 central subpopulation of northern anchovy (CSNA) stock assessment. The meeting will be co-hosted by the NOAA Southwest Fisheries Science Center.

**DATES:** The online meeting will be held Tuesday, December 7, through Friday, December 10, 2021. The meeting will begin each day at 8:30 a.m. Pacific Standard Time and will continue until 5 p.m. or until business for the day has been completed.

**ADDRESSES:** This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may contact Mr. Dale Sweetnam (*dale.sweetnam@noaa.gov;* (858) 546–7170).

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

**FOR FURTHER INFORMATION CONTACT:** Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

**SUPPLEMENTARY INFORMATION:** The primary purpose of the meeting is to provide technical review of the CSNA stock assessment. The review panel will consist of at least three members of the Pacific Council's Scientific and Statistical Committee's Subcommittee on Coastal Pelagic Species (CPS), and at least two independent experts from the Center for Independent Experts. Representatives of the Pacific Council's CPS Management Team and the CPS Advisory Subpanel will also participate in the review as advisers.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Dale Sweetnam (*dale.sweetnam@noaa.gov;* (858) 546–7170) at least 10 days prior to the meeting date.

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

Dated: November 17, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–25398 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB600]**

### Caribbean Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting (virtual).

**SUMMARY:** The Caribbean Fishery Management Council (CFMC) will hold the 176th hybrid (virtual/in person) public meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

**DATES:** The 176th CFMC hybrid (virtual/in person) public meeting will be held on December 7, 2021, from 9 a.m. to 5:15 p.m. AST, and on December 8, 2021, from 9 a.m. to 3:15 p.m. AST. The meeting will be held at the Courtyard by Marriott Isla Verde Beach Resort, 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico 00979.

**ADDRESSES:** You may join the 176th CFMC public meeting (virtual) via Zoom, from a computer, tablet or smartphone by entering the following address:

Join Zoom Meeting

*https://us02web.zoom.us/j/83060685915?pwd=VmVsc1orSUtKck8xYk1XOXNDY1ErZz09*
*Meeting ID:* 830 6068 5915
*Passcode:* 995658

One Tap Mobile

+17879451488,,83060685915#,,,,,,0#,,995658# Puerto Rico
+17879667727,,83060685915#,,,,,,0#,,995658# Puerto Rico

Dial by Your Location

+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 939 945 0244 Puerto Rico
*Meeting ID:* 830 6068 5915
*Passcode:* 995658

In case there are problems and we cannot reconnect via Zoom, the meeting will continue using GoToMeeting.

You can join the meeting from your computer, tablet or smartphone. *https://global.gotomeeting.com/join/971749317.* You can also dial in using your phone. United States: +1 (408) 650–3123 Access Code: 971–749–317.

**FOR FURTHER INFORMATION CONTACT:** Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 398–3717.

**SUPPLEMENTARY INFORMATION:** The following items included in the tentative agenda will be discussed:

**December 7, 2021**

*9 a.m.–9:45 a.m.*

—Call to Order
—Roll Call
—Adoption of Agenda Consideration of 175th Council Meeting Verbatim Transcriptions
—Executive Director's Report

*9:45 a.m.–10:45 a.m.*

—Five-Year Strategic Plan Presentation for CFMC Final Action—Michelle Duval, CFMC Contractor

*10:45 a.m.–11:45 a.m.*

—DAP Chairs Reports on DAP Meetings (STT/STJ and PR) on Compatible Regulations
—St. Thomas/St. John, USVI—Julien Magras (30 minutes)
—Puerto Rico—Nelson Crespo (30 minutes)

*11:45 a.m.–12 p.m.*

—Discussion on Trawling Gear in Federal Waters

*12 p.m.–1 p.m.*

—Lunch Break

*1 p.m.–1:30 p.m.*

—Update on Progress for Life History of Shallow-Water Reef Fishes—Virginia Shervette
—Deep-Water Snapper Life History Update—Virginia Shervette

*1:30 p.m.–2 p.m.*

—Southeast Fisheries Science Center Update—Kevin McCarthy
—Report on Caribbean Projects Inventory
—Report on Species Selection for Assessments (SEDAR)

*2:00 p.m.–2:30 p.m.*

—Island-Based FMP Update—María López-Mercer, SERO/NOAA Fisheries
—Modification to the Buoy Gear Definition—María López-Mercer, SERO/NOAA Fisheries

*2:30 p.m.–3 p.m.*

—Timing of Red Hind Seasonal Closures in Puerto Rico Federal Waters—María López-Mercer, SERO/NOAA Fisheries

*3 p.m.–3:10 p.m.*

—Break

*3:10 p.m.–3:40 p.m.*

—Discussion of Sargassum Issues and Role as Essential Fish Habitat—SERO/NOAA Fisheries

*3:40 p.m.–4:10 p.m.*

—Discussion of Timing of Accountability Measures for Spiny Lobster in Puerto Rico—Sarah Stephenson, SERO/NOAA Fisheries

*4:10 p.m.–4:30 p.m.*

—PUBLIC COMMENT PERIOD (5-minute presentations)

*4:30 p.m.*

—Adjourn for the Day

*4: 45 p.m.–5:15 p.m.*

—Closed Session

**December 8, 2021**

*9 a.m.–10 a.m.*

—Outreach and Education Report—Alida Ortiz
—Social Media Report—Cristina Olán

*10 a.m.–10:30 a.m.*

—Reports by Liaison Officers (10 minutes each)
—St. Thomas/St. John, USVI—Nikole Greaux
—St. Croix, USVI—Mavel Maldonado
—Puerto Rico—Wilson Santiago

*10:30 a.m.–11:30 a.m.*

—Enforcement Issues (15 minutes each):
—Puerto Rico—DNER
—USVI—DPNR
—U.S. Coast Guard
—NMFS/NOAA

*11:30 a.m.–12 p.m.*

—Microplastics in the Caribbean Sea Project Report—Dalila Aldana

*12 p.m.–1 p.m.*

—Lunch Break

*1 p.m.–1:30 p.m.*

—Dolphinfish Research Program Update —Wessly Merten

*1:30 p.m.–2 p.m.*

—Deep-Water Squid Fishing—Marcos Hanke

*2 p.m.–2:30 p.m.*

—CFMC Advisory Bodies Membership

*2:30 p.m.–2:45 p.m.*

—Other Business

*2:45 p.m.–3 p.m.*

—PUBLIC COMMENT PERIOD (5 minutes presentation)

*3 p.m.–3:15 p.m.*

—Next CFMC Meetings in 2022

*3:15 p.m.*

—Adjourn

*Note (1):* Other than starting time and dates of the meetings, the established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. To further accommodate discussion and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice. Changes in the agenda will be posted to the CFMC website, Facebook, Twitter and Instagram as practicable.

*Note (2):* Financial disclosure forms are available for inspection at this meeting, as per 50 CFR part 601.

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on December 7, 2021, at 9 a.m. AST, and will end on December 8, 2021, at 3:15 p.m. AST. Other than the start time on the first day of the meeting, interested parties should be aware that discussions may start earlier or later than indicated in the agenda, at the discretion of the Chair.

**Special Accommodations**

Simultaneous interpretation will be provided.

For simultaneous interpretation English-Spanish-English follow your Zoom screen instructions. You will be asked which language you prefer when you join the meeting.

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 226–8849.

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

Dated: November 17, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–25399 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA831]**

### Space Weather Advisory Group Meeting

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Space Weather Advisory Group (SWAG) will meet for 1 half-day on December 1, 2021.

**DATES:** The meeting is scheduled as follows: December 1, 2021 from 10 a.m.–2 p.m. Eastern Standard Time (EST).

**ADDRESSES:** The public meeting will be conducted virtually via webinar. For details on how to connect to the webinar or to submit comments, please contact Jennifer Meehan, National Weather Service; telephone: 301–427–9798; email: *jennifer.meehan@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Meehan, National Weather Service, NOAA, 1325 East West Highway, Silver Spring, Maryland, 20910; 301–427–9798 or *jennifer.meehan@noaa.gov;* or visit the SWAG website: *https://www.weather.gov/swag.*

**SUPPLEMENTARY INFORMATION:** Pursuant to the Promoting Research and Observations of Space Weather to Improve the Forecasting of Tomorrow (PROSWIFT) Act, 51 U.S.C. 60601 *et seq.,* the Administrator of NOAA and the National Science and Technology Council's Space Weather Operations, Research, and Mitigation Interagency Working Group (interagency working group) established the Space Weather Advisory Group (SWAG) on April 21, 2021. The SWAG is the only Federal Advisory Committee that advises and informs the interest and work of the interagency working group. The SWAG is to receive advice from the academic community, the commercial space weather sector, and nongovernmental space weather end users to carry out the responsibilities of the SWAG set forth in the PROSWIFT Act, 51 U.S.C. 60601 *et seq.*

The SWAG is directed to advise the interagency working group on the following: Facilitating advances in the space weather enterprise of the United States; improving the ability of the United States to prepare for, mitigate, respond to, and recover from space weather phenomena; enabling the coordination and facilitation of research to operations and operations to research, as described in section 60604(d) of title 51, United States Code; and developing and implementing the integrated strategy under 51 U.S.C. 60601(c), including subsequent updates and reevaluations. The SWAG shall also conduct a comprehensive survey of the needs of users of space weather products to identify the space weather research, observations, forecasting, prediction, and modeling advances required to improve space weather products, as required by 51 U.S.C. 60601(d)(3).

#### I. Matters To Be Considered

The meeting will be open to the public. During the meeting, the Committee will discuss the PROSWIFT Act, 51 U.S.C. 60601 *et seq.,* directed duties of the SWAG and kick off the required by 51 U.S.C. 60601(d)(3) user survey. The full agenda will be published on the SWAG website. Meeting materials, including work products, will also be available on the SWAG website: *https://www.weather.gov/swag.*

#### II. Additional Information and Public Comments

The meeting will be held over one half-day and will be conducted via webinar (for meeting details see **ADDRESSES**). Please register for the meeting through the website: *https://www.weather.gov/swag.*

This event is accessible to individuals with disabilities. For all other special accommodation requests, please contact *Jennifer.meehan@noaa.gov.* This webinar is a NOAA public meeting and will be recorded and transcribed. If you have a public comment, you acknowledge you will be recorded and are aware you can opt out of the meeting. Participation in the meeting constitutes consent to the recording. Both the meeting minutes and presentations will be posted to the SWAG website (*https://www.weather.gov/swag*). The agenda, speakers and times are subject to change. For updates, please check the SWAG website (*https://www.weather.gov/swag*).

Public comments directed to the SWAG members and SWAG related topics are encouraged. Individuals or groups who would like to submit advance written comments, please email them to *jennifer.meehan@noaa.gov* by November 29, 2021 to provide sufficient time for SWAG review. Written comments received after these dates will be distributed to the SWAG but may not be reviewed prior to the meeting date. As time allows, public comments will be read into the public record during the meeting. Advance comments will be collated and posted to the meeting website.

Dated: November 17, 2021.

**Michael Farrar,**

*Director, National Centers for Environmental Prediction, National Weather Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2021–25407 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–KE–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB604]**

### Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will hold a one and half-day in-person and virtual meeting (hybrid) of its Ecosystem Technical Committee (ETC).

**DATES:** The meeting will take place Tuesday, December 14, 2021, 8:30 a.m.–5 p.m. and Wednesday, December 15, 2021, 8:30 a.m.–12 p.m., EST.

**ADDRESSES:** Those who prefer to attend the meeting in-person may do so at the Gulf Council office. If you are unable or do not wish to travel, you may participate in the meeting via webinar. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the ETC meeting on the calendar.

*Council address:* Gulf of Mexico Fishery Management Council, 4701 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Froeschke, Deputy Director, Gulf of Mexico Fishery Management Council; *john.froeschke@gulfcouncil.org*, telephone: (813) 348–1630.

**SUPPLEMENTARY INFORMATION:**

**Tuesday, December 14, 2021; 8:30 a.m. Until 5 p.m.; EST**

The meeting will begin with Introductions and Adoption of Agenda, Approval of Minutes from the September 10, 2021 meeting and review of Scope of Work with its members.

The committee will review and discuss the LGL Contract Details; ETC's

Roles and Responsibilities; Case Studies and Lessons Learned from Fishery Ecosystem Planning (FEP) including presentation, document, committee discussion and recommendations. They will receive a presentation and review a document on Stakeholder Assessment and Concept Mapping; and, hold a committee discussion and recommendations.

**Wednesday, December 15, 2021; 8:30 a.m. Until 12 p.m.; EST**

The ETC will review and discuss Indicator Development for Fishery Ecosystem Planning (FEP); receive a presentation for White Paper and Key Recommendations, review of document and Draft Indicator Dashboard, and hold committee discussion and recommendations.

The committee will receive a presentation for the Proposed FEP Structure; receive public comment and, discuss any Other Business items.

—Meeting Adjourns

The meeting will be held in-person and via webinar (hybrid). You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Ecosystem Technical Committee meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Technical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Technical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: November 17, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–25421 Filed 11–19–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Amendment of Department of Defense Federal Advisory Committees—Defense Policy Board

**AGENCY:** Department of Defense (DoD).

**ACTION:** Amendment of Federal Advisory Committee.

**SUMMARY:** The DoD is publishing this notice to announce that it is amending the Defense Policy Board (''the Board'').

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

**SUPPLEMENTARY INFORMATION:** The Board is being amended in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., app.) and 41 CFR 102–3.50(d). The charter and contact information for the Board's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The Board provides the Secretary of Defense independent advice and recommendations on matters concerning defense policy. Specifically, the Board will focus on: (a) Issues central to strategic DoD planning; (b) policy implications of U.S. force structure and force modernization on DoD's ability to execute U.S. defense strategy; (c) U.S. regional defense policies; (d) and any other topics raised by the Secretary of Defense, the Deputy Secretary of Defense, or the Under Secretary of Defense for Policy.

The Board is composed of not more than 25 members who have distinguished backgrounds in defense and national security affairs. These members will come from varied backgrounds including prior government or military service, multinational corporations, academia, or other non-government organizations. Individual members will be appointed according to DoD policy and procedures, and serve a term of service of one-to-four years with annual renewals. One member will be appointed as Chair of the Board. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the Board, or serve on more than two DoD Federal advisory committees at one time.

Members of the Board who are not full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee members. Board members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, will be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee members.

All members of the Board are appointed to provide advice based on their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: November 16, 2021.

**Aaron T. Siegel,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 2021–25334 Filed 11–19–21; 8:45 am]

**BILLING CODE 5001–06–P**

## DELAWARE RIVER BASIN COMMISSION

### Notice of Proposed Methodology for the 2022 Delaware River and Bay Water Quality Assessment Report

**AGENCY:** Delaware River Basin Commission.

**ACTION:** Notice of proposed methodology.

**SUMMARY:** Notice is hereby given that the methodology proposed to be used in the 2022 Delaware River and Bay Water Quality Assessment Report is available for review and comment.

**DATES:** Comments on the assessment methodology or recommendations for the consideration of data sets should be submitted in writing before 5:00 p.m. Eastern on February 18, 2022.

**ADDRESSES:** Comments will be accepted *via* email to *john.yagecic@drbc.gov*,

with ''Water Quality Assessment 2022'' as the subject line; *via* U.S. Mail to DRBC, Attn: Water Quality Assessment 2022, P.O. Box 7360, West Trenton, NJ 08628–0360; *via* private carrier to DRBC, Attn: Water Quality Assessment 2022, 25 Cosey Road, West Trenton, NJ 08628–0360; by hand to the latter address; or *via* fax to 609–883–9522. All submissions should include the phrase ''Water Quality Assessment 2022'' in the subject line and should contain the name, address (street address optional) and affiliation, if any, of the commenter.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jacob Bransky, Aquatic Biologist, *jacob.bransky@drbc.gov,* 609–883–9500, ext. 271.

**SUPPLEMENTARY INFORMATION:** The Delaware River Basin Commission (''DRBC'' or ''Commission'') is a Federal-interstate compact agency that was created in 1961 by concurrent legislation of the States of Delaware, New Jersey, and New York, the Commonwealth of Pennsylvania and the United States Government for purpose of jointly managing the water resources of the Delaware River Basin.

DRBC currently is compiling data for the *2022 Delaware River and Bay Water Quality Assessment Report* (''2022 Assessment'') required by the federal Clean Water Act (''CWA''). The 2022 Assessment will present the extent to which waters of the Delaware River and Bay are attaining designated uses in accordance with Section 305(b) of the CWA and the Commission's Water Quality Regulations, 18 CFR part 410, and will identify impaired waters, which consist of waters in which surface water quality standards are not being met.

The proposed assessment methodology to be used in the 2022 Assessment is available for review at the following URL: *https://www.nj.gov/drbc/library/documents/WQAssessmentReport2022_MethodologyDRAFTnov2021.pdf*.

(Authority: Pub. L. 87–328, 75 stat. 688.)

Dated: November 16, 2021.

**Pamela M. Bush,**

*Commission Secretary.*

[FR Doc. 2021–25445 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF ENERGY

### Reinstatement of a Previously Approved Information Collection for the Weatherization Assistance Program

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The U.S. Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to reinstate a previously approved collection, with change, for three years with the Office of Management and Budget (OMB). The information collection request, Weatherization Assistance Program Sub-Programs, was previously approved on May 31, 2014, under OMB Control No. 1910–5157 and expired on May 31, 2017.

**DATES:** Comments regarding this collection must be received on or before January 21, 2022. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

**ADDRESSES:** Written comments may be sent to Brittany Price by email to the following address: *Brittany.Price@ee.doe.gov* with the subject line ''Weatherization Assistance Program Sub-Programs (OMB No. 1910–5157)'' included in the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption. No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments, see section III (Submission of Comments) of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact the DOE staff person listed in this notice.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Brittany Price, EE–5W, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585–0121 or by email or phone at *brittany.price@ee.doe.gov,* 240–306–7252.

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

This information collection request contains:

(1) *OMB No.:* 1910–5157;

(2) *Information Collection Request Title:* ''Weatherization Enhancement and Innovation (E&I), Sustainable Energy Resources for Consumers (SERC), and Community Scale Weatherization Pilot Grants'';

(3) *Type of Review:* Reinstatement, with change, of a previously approved collection for which approval has expired;

(4) *Purpose:* To collect information on the status of grantee activities, including but not limited to weatherized units, total people assisted with grant funds, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously. All information collection proposed under these programs is necessary for their implementation, and thus necessary for the function of the Agency as a whole. The information collected will be used by program staff to track the recipients of E&I, SERC, and Community Scale activities, their progress in achieving scheduled milestones, and funds expended (including expenditure rates). The information also enables program staff to provide required or requested information on program activities to OMB, Congress and the public.

(5) *Annual Estimated Number of Respondents:* 66;

(6) *Annual Estimated Number of Total Responses:* 406;

(7) *Annual Estimated Number of Burden Hours:* 2336 hours;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $105,666.32.

*Statutory Authority:* Statutes 42 U.S.C. 6864d and 42 U.S.C. 6872, H.R. 133, Estimate for Division N—

Additional Coronavirus Response and Relief Consolidated Appropriations Act, 2021 Public Law 116–260.

**Signing Authority**

This document of the Department of Energy was signed on November 16, 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 November 17, 2021.

**Treena V. Garrett,**

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

[FR Doc. 2021–25429 Filed 11–19–21; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PL21–3–000]**

### Technical Conference on Greenhouse Gas Mitigation: Natural Gas Act Sections 3 and 7 Authorizations; Notice Inviting Technical Conference Comments

On November 19, 2021, the Federal Energy Regulatory Commission (Commission) will convene a Commission staff-led technical conference to discuss methods natural gas companies may use to mitigate the effects of direct and indirect greenhouse gas emissions resulting from Natural Gas Act sections 3 and 7 authorizations.

All interested persons are invited to file post-technical conference comments to address issues raised during the technical conference and identified in the Supplemental Notices of Technical Conference issued on October 1, 2021, and November 9, 2021. For reference, the questions included in the Supplemental Notices are included below. Commenters need not answer all of the questions but are encouraged to organize responses using the numbering and order in the questions below. Commenters are also invited to reference material previously filed in this docket but are encouraged to avoid repetition or replication of previous material. Comments are due on Tuesday, December 14, 2021.

Comments may be filed electronically via the internet.[1] Instructions are available on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659.

For more information about this notice, please contact *GHGTechConf@ferc.gov.*

Dated: November 16, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

**Post-Technical Conference Questions for Comment**

*1. The Level of Mitigation for a Proposed Project's Reasonably Foreseeable Greenhouse Gas Emissions*

a. When determining the amount of reasonably foreseeable GHG emissions associated with a proposed project, how could the Commission consider: Project utilization projections; State or regional natural gas usage projections from Public Utility Commissions or other entities; individual emissions data for industrial or electric generation customers; known netting effects from displacement of higher or lower emitting sources, including displacement that may occur over the life of the project; or other factors?

b. What is the appropriate level of mitigation associated with GHG emissions for a proposed project? Should the Commission determine the amount of mitigation required on a case-by-case basis or should the mitigation levels be set at zero, less than significant, or some other level?

*2. Types of Mitigation*

a. What types of physical mitigation associated with GHG emissions are project sponsors currently using at their facilities? What types of physical mitigation associated with GHG emissions project sponsors are currently available to project sponsors? Are there limitations to physical mitigation measures?

b. What types of market-based mitigation associated with GHG emissions are project sponsors currently using? What types of alternative or market-based mitigation associated with GHG emissions project sponsors are currently available to project sponsors?

c. Are market-based mitigation measures effective and verifiable methods of mitigation over the life of a project? What effects would this type of mitigation from Commission-jurisdictional projects have on offset, REC, and GHG compliance markets?

d. Should project applicants submit mitigation proposals with their project application? How soon might current project applicants be able to supplement the record or respond to a Commission data request with their mitigation proposal?

e. What factors should the Commission consider in evaluating the sufficiency of a mitigation proposal?

*3. Compliance and Cost Recovery of Mitigation*

a. How could the Commission ensure continued verification and accounting of GHG mitigation measures since the Commission would need to monitor and assess mitigation during the life of the project?

b. Are there federal or state agencies which currently monitor compliance of GHG mitigation measures? Should the Commission explore potential interagency agreements or memorandums of understanding with other federal agencies to monitor compliance of GHG mitigation measures?

c. How could the Commission allow project sponsors to recover the costs of market-based mitigation measures, such as the purchase of offsets? Would allowing recovery of such costs through an annual tracker or surcharge be appropriate?

[FR Doc. 2021–25403 Filed 11–19–21; 8:45 am]

**BILLING CODE 6717–01–P**

[1] *See* 18 CFR 385.2001(a)(1)(iii) (2020).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC22–16–000.

*Applicants:* Energy Center Paxton LLC, KKR Thor Bidco, LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act of Energy Center Paxton LLC.

*Filed Date:* 11/15/21.

*Accession Number:* 20211115–5233.

*Comment Date:* 5 p.m. ET 12/6/21.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG22–23–000.
*Applicants:* Arlington Energy Center III, LLC.
*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Arlington Energy Center III, LLC.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5108.
*Comment Date:* 5 p.m. ET 12/7/21.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

*Docket Numbers:* EL22–9–000.
*Applicants:* ITC Midwest LLC.
*Description:* Petition for Declaratory Order of ITC Midwest LLC.
*Filed Date:* 11/2/21.
*Accession Number:* 20211102–5230.
*Comment Date:* 5 p.m. ET 12/2/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER20–1906–001.
*Applicants:* Story County Wind, LLC.
*Description:* Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report__Story County Wind, LLC to be effective N/A.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5167.
*Comment Date:* 5 p.m. ET 12/7/21.

*Docket Numbers:* ER22–1–001.
*Applicants:* Alliant Energy Corporate Services, Inc.
*Description:* Tariff Amendment: Amendment to Schedule 2 Submission to be effective 11/30/2021.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5101.
*Comment Date:* 5 p.m. ET 12/7/21.

*Docket Numbers:* ER22–244–000; TS22–1–000.
*Applicants:* Caddo Wind, LLC, Caddo Wind, LLC.
*Description:* Amended Request for Temporary Tariff Waiver, et al. of Caddo Wind, LLC.
*Filed Date:* 11/10/21.
*Accession Number:* 20211110–5270.
*Comment Date:* 5 p.m. ET 11/22/21.

*Docket Numbers:* ER22–355–000.
*Applicants:* ISO New England Inc.
*Description:* ISO New England Inc. Resource Termination—Killingly Energy Center.
*Filed Date:* 11/4/21.
*Accession Number:* 20211104–5202.
*Comment Date:* 5 p.m. ET 11/26/21.

*Docket Numbers:* ER22–408–000.
*Applicants:* Persimmon Creek Wind Farm 1, LLC.
*Description:* Request for Waiver and Expedited Consideration of Persimmon Creek Wind Farm 1, LLC.
*Filed Date:* 11/12/21.
*Accession Number:* 20211112–5386.
*Comment Date:* 5 p.m. ET 12/3/21.

*Docket Numbers:* ER22–413–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Amendment to WMPA SA No. 5588; Queue No. AE2–114 to be effective 1/8/2020.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5086.
*Comment Date:* 5 p.m. ET 12/7/21.

*Docket Numbers:* ER22–414–000.
*Applicants:* AES Marketing and Trading, LLC.
*Description:* Baseline eTariff Filing: AES Marketing and Trading, LLC MBR Tariff to be effective 11/17/2021.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5140.
*Comment Date:* 5 p.m. ET 12/7/21.

*Docket Numbers:* ER22–415–000.
*Applicants:* Arlington Energy Center III, LLC.
*Description:* Baseline eTariff Filing: Arlington Energy Center III, LLC Application for Market-Based Rate Authorization to be effective 1/16/2022.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5172.
*Comment Date:* 5 p.m. ET 12/7/21.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES22–23–000.
*Applicants:* Basin Electric Power Cooperative.
*Description:* Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Basin Electric Power Cooperative.
*Filed Date:* 11/16/21.
*Accession Number:* 20211116–5183.
*Comment Date:* 5 p.m. ET 12/7/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 16, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–25402 Filed 11–19–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14634–003]**

### New England Hydropower Company, 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:* Minor License.
b. *Project No.:* 14634–003.
c. *Date filed:* November 2, 2021.
d. *Applicant:* New England Hydropower Company, LLC (NEHC).
e. *Name of Project:* Ashton Dam Hydroelectric Project (project).
f. *Location:* On the Blackstone River in Providence County, Rhode Island. No federal or tribal lands would be occupied by project works or located within the project boundary.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Michael Kerr, New England Hydropower Company, LLC, 100 Cummings Center, Suite 451C, Beverly, MA 01915; Phone at (978) 360–2547, or email at *michael@nehydropower.com.*
i. *FERC Contact:* John Baummer at (202) 502–6837, or *john.baummer@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:* January 1, 2022.

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: Ashton Dam Hydroelectric Project (P–14634–003).

m. The application is not ready for environmental analysis at this time.

n. The proposed Ashton Dam Hydroelectric Project would consist of: (1) An existing stone masonry gravity dam that includes: (a) A western abutment section; (b) a 203-foot-long western spillway section with a crest elevation of 73.6 feet North American Vertical Datum of 1988 (NAVD 88); (c) an 18-foot-long stone masonry pier that includes two 4-foot-wide, 8-foot-high existing openings, to be modified to include a new low-level steel bulkhead panel; (d) an existing 54-foot-long eastern spillway section that would be replaced with a new 54-foot-long concrete section that includes: (i) Two 19.7-foot-wide, 18.1-foot-high log sluice gates with crest elevations of 82.1 NAVD 88; (ii) two 19.7-foot-wide, horizontal steel trashracks sloped at 9 degrees to inflow with 0.5-inch clear bar spacing; and (iii) two 19.7-foot-wide, 15.4-foot-high openings; and (e) an eastern abutment section; (2) an existing impoundment with a surface area of 11.73 acres at an elevation of 73.6 feet NAVD 88; (3) four submersible StreamDiver Kaplan turbine-generator units (three 189-kilowatt (kW) and one 102-kW generators) located in the openings of the new concrete structure, with a total installed capacity of 669 kW; (4) four new 8.1-foot-wide, 3.8-foot-high hinged crest gates with crest elevations of 73.6 feet NAVD 88, installed on top of the new concrete structure; (5) a new 11.5-foot-long, 44.3-foot-wide concrete tailrace and an approximately 30- to 45-foot-long, 44.3-foot-wide concrete apron; (6) a new 20-foot-long, 8-foot-wide control building located on the eastern shoreline of the Blackstone River; (7) a new step-up transformer and a 1,370-foot-long underground transmission line connecting the project to the distribution system owned by the Narragansett Electric Company; (8) a new access road and parking area; and (9) appurtenant facilities.

NEHC proposes to: (1) Operate the project in a run-of-river mode with an estimated annual energy production of approximately 2,870 megawatt-hours; (2) release a continuous minimum flow of 100 cubic feet per second or inflow whichever is less, over the western spillway; (3) install a downstream fish passage facility between the crest gates on top of the new concrete structure; and (4) install an upstream eel passage facility at the project dam.

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–14634). 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)—January 2022

Request Additional Information—January 2022

Issue Scoping Document 1 for comments—March 2022

Request Additional Information (if necessary)—April 2022

Issue Acceptance Letter—April 2022

Issue Scoping Document 2—June 2022

Issue Notice of Ready for Environmental Analysis—June 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: November 16, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–25404 Filed 11–19–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project Nos. 12514–087, 12514–089]**

## Northern Indiana Public Service Company LLC; Notice of Effectiveness of Withdrawal of Temporary Variance Requests

On September 13, 2021, Northern Indiana Public Service Company LLC (NIPSCO) filed a request for a temporary variance from the required surface elevation of Lake Shafer in Article 403 of the license for the Norway-Oakdale Project. On October 8, 2021, NIPSCO filed a request for a second temporary variance from the U.S. Fish and Wildlife Service's Technical Assistance Letter requirement that generation cease during an Abnormal Low Flow event to allow NIPSCO to continue its concrete restoration work at Oakdale Dam. On November 1, 2021, NIPSCO filed a notice of withdrawal of both temporary variance requests.

No motion in opposition to the notice of withdrawal has been filed, and the Commission has taken no action to disallow the withdrawal. Pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure,[1] the withdrawal of the temporary variance requests became effective on November 16, 2021, and this proceeding is hereby terminated.

Dated: November 16, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–25405 Filed 11–19–21; 8:45 am]

**BILLING CODE 6717–01–P**

[1] 18 CFR 385.216(b) (2020).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP22–317–000.
*Applicants:* Granite State Gas Transmission, Inc.
*Description:* Compliance filing: Compliance Filing for Order No. 587–Z—NAESB Update to be effective 6/1/2022.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5000.
*Comment Date:* 5 p.m. ET 11/29/21.

*Docket Numbers:* RP22–318–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 11.15.21 Negotiated Rates—Twin Eagle Resource Management, LLC H–7300–89 to be effective 12/1/2021.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5054.
*Comment Date:* 5 p.m. ET 11/29/21.

*Docket Numbers:* RP22–319–000.
*Applicants:* Tennessee Gas Pipeline Company, L.L.C.
*Description:* § 4(d) Rate Filing: Volume No. 2—Castleton SP367814 & 367815 and Citadel SP369972 to be effective 1/1/2022.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5055.
*Comment Date:* 5 p.m. ET 11/29/21.

*Docket Numbers:* RP22–320–000.
*Applicants:* ANR Pipeline Company.
*Description:* Compliance filing: CP20–8_GCXP Compliance Filing to be effective 1/1/2022.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5118.
*Comment Date:* 5 p.m. ET 11/29/21.

*Docket Numbers:* RP22–321–000.
*Applicants:* Discovery Gas Transmission LLC.
*Description:* § 4(d) Rate Filing: 2022 HMRE Surcharge Filing to be effective 1/1/2022.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5128.
*Comment Date:* 5 p.m. ET 11/29/21.

*Docket Numbers:* RP22–322–000.
*Applicants:* SWN Energy Services Company, LLC, GEP Haynesville, LLC.
*Description:* Joint Petition for Temporary Waivers of Capacity Release Regulations, and Related Interstate Pipeline Tariff Provisions and Request for Expedited Consideration of SWN Energy Services Company, LLC, et al.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5140.
*Comment Date:* 5 p.m. ET 11/29/21.

*Docket Numbers:* RP22–323–000.
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.
*Description:* § 4(d) Rate Filing: 2021 GSS and LSS Fuel Percentage Changes to be effective 11/1/2021.
*Filed Date:* 11/15/21.
*Accession Number:* 20211115–5201.
*Comment Date:* 5 p.m. ET 11/29/21.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 16, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–25400 Filed 11–19–21; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2021–0068; FRL–8732–05–OCSPP]**

### Certain New Chemicals; Receipt and Status Information for October 2021

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

**ACTION:** Notice.

**SUMMARY:** EPA is required under the Toxic Substances Control Act (TSCA) to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 10/01/2021 to 10/31/2021.

**DATES:** Comments identified by the specific case number provided in this document must be received on or before December 22, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0068, and the specific case number for the chemical substance related to your comment, through the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

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

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Executive Summary

*A. What action is the Agency taking?*

This document provides the receipt and status reports for the period from 10/01/2021 to 10/31/2021. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information);

an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

*B. What is the Agency's authority for taking this action?*

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

*C. Does this action apply to me?*

This action provides information that is directed to the public in general.

*D. Does this action have any incremental economic impacts or paperwork burdens?*

No.

*E. What should I consider as I prepare my comments for EPA?*

1. *Submitting confidential business information (CBI).* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

## II. Status Reports

Given public interest in information on the status of TSCA section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the TSCA section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

## III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 10/01/2021 TO 10/31/2021

| Case No. | Version | Received date | Manufacturer | Use | Chemical substance |
|---|---|---|---|---|---|
| P–18–0273A | 8 | 10/06/2021 | CBI | (G) Used in polymer manufacturing | (S) 1,4-Cyclohexanedicarboxylic acid, 1,4-bis(2-ethylhexyl) ester |
| P–21–0137 | 5 | 10/22/2021 | Lamberti USA Inc | (G) Industrial additive | (G) Triazine-trione, tris(isocyanatoalkyl)-, polymer with substituted diisocyanato alkylcarbomonocycle, hydro-hydroxypoly(oxyalkanediyl)and hydro-hydroxypoly[oxy(alkyl-alkanediyl)], aliphatic alkyl amine-blocked |
| P–21–0181A | 4 | 10/25/2021 | CBI | (G) Color developer | (G) 1,3-Benzenedicarboxamide, N1,N3-bis(carbomonocyclic)-5-[[(carbomonocyclic)amino]sulfonyl]- |
| P–21–0201A | 7 | 10/13/2021 | The Lewis Chemical Company. | (S) The intention is for this product to be used as an offset to N,N,N′,N′,N″-Pentamethyl-N-tallow alkyl1,3-propanediammonium chloride (CAS #68607–29–4) in a cationic latex asphalt emulsion formulation. | (S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-9-octadecen-1-yl, chloride (1:2); (S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-octadecyl-, chloride (1:2);(S) 1,3-Propanediaminium, 2-hydroxy-N1,N1,N1,N3,N3-pentamethyl-N3-tetradecyl-, chloride (1:2); (S) 1,3-Propanediaminium, N-hexadecyl-2-hydroxy-N,N,N′,N′,N′-pentamethyl-, dichloride (2Cl); |
| P–21–0207A | 5 | 10/21/2021 | CBI | (G) Emulsifier | (G) Carboxy ether; branched and linear ethercarboxylate; |
| P–21–0211A | 4 | 10/01/2021 | CBI | (G) Process aid | (G) Polycyclic Dioxolane. |
| P–21–0211A | 5 | 10/21/2021 | CBI | (G) Process aid | (G) Polycyclic Dioxolane. |
| SN–22–0001 | 1 | 10/06/2021 | CBI | (G) Component in polishing formulation. | (S) Ethanol, 2,2′,2″-nitrilotris-, compd. with .alpha.-[2,4,6-tris(1-phenylethyl)phenyl]-.omega.-hydroxypoly(oxy-1,2-ethanediyl) phosphate |

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90 day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 10/01/2021 TO 10/31/2021

| Case No. | Received date | Commencement date | If Amendment, type of amendment | Chemical substance |
|---|---|---|---|---|
| J–20–0022 | 10/07/2021 | 10/06/2021 | N | (G) Modified saccharomyces cerevisiae. |
| P–15–0607A | 10/27/2021 | 07/26/2021 | Withdrew CBI claim | (S) 1,2,4,5,7,8-hexoxonane, 3,6,9-trimethyl-, 3,6,9-tris(et and pr)derivs. |
| P–18–0023 | 10/13/2021 | 09/30/2021 | N | (G) Propanediol phosphate. |
| P–18–0024 | 10/06/2021 | 10/06/2021 | N | (G) Phosphate epichlorohydrin polymer. |
| P–18–0073 | 10/13/2021 | 10/11/2021 | N | (S) Sulfuric acid, ammonium salt (1:?). |
| P–19–0098 | 09/30/2021 | 09/15/2021 | N | (G) Phosphoric acid, polymer with (hydroxyalkyl)-alkanediol and alkanediol. |
| P–19–0098A | 10/25/2021 | 09/15/2021 | Withdrew CBI claim | (S) Phosphoric acid, polymer with 2,2-bis(hydroxymethyl)-1,3-propanediol and 1,2-ethanediol. |
| P–21–0095 | 10/04/2021 | 09/30/2021 | N | (S) 1-tetradecene, homopolymer, hydrogenated, by-products from, c28–42 fraction. |
| P–21–0125 | 10/14/2021 | 09/23/2021 | N | (S) Nonane, branched. |
| P–96–1181 | 10/14/2021 | 10/12/2021 | N | (G) Inorganic acid, compds. with [(substituted-propyl)imino]bis[alkanol]-bisphenol a-epichlorohydrin-hexahydro-1,3-isobenzofurandione-polyethylene glycol ether with bisphenol a (2:1) polymer-alkanolamine reaction products. |
| P–98–0179 | 10/26/2021 | 10/07/2021 | N | (G) Trialkoxysilylalkylamino-alkyldioate. |

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 10/01/2021 TO 10/31/2021

| Case No. | Received date | Type of test information | Chemical substance |
|---|---|---|---|
| P–14–0712 | 10/11/2021 | Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A | (G) Plastics, wastes, pyrolyzed, bulk pyrolysate. |
| P–16–0150 | 10/19/2021 | 96-Hour Static Toxicity Test with Marine Diatom (Skeletonema Costatum), 96-Hour Static Acute Toxicity Test with Sheepshead Minnow (Cyprinodon Variegatus), and 96-Hour Static Acute Toxicity Test with Saltwater Mysid (Americamysis Bahia). | (G) Chlorofluorocarbon. |

TABLE III—TEST INFORMATION RECEIVED FROM 10/01/2021 TO 10/31/2021—Continued

| Case No. | Received date | Type of test information | Chemical substance |
|---|---|---|---|
| P–18–0016 | 10/12/2021 | Notice of Study Schedule | (G) Aromatic sulfonium tricyclo fluoroalkyl sulfonic acid salt. |
| P–18–0124 | 10/01/2021 | Draft Protocols for a 90-Day Inhalation Toxicity Study of Lithium Nickel Potassium Oxide (KDLNO) in Sprague Dawley Rats with 8-Week Recovery Period and a 4-Week Inhalation Toxicity Study of Lithium Nickel Potassium Oxide (KDLNO) in Sprague Dawley Rats with a 2-Week Recovery. | (G) Alkali nickel oxide. |
| P–20–0014 | 10/21/2021 | Fish Acute Toxicity Mitigated by Humic Acid (OCSPP Test Guidelines 850.1085) | (G) Sugars, polymer with alkanetriamine. |
| P–20–0042 | 10/12/2021 | Notice of Study Schedule | (G) Sulfonium, trisaryl-, 7,7-dialkyl-2-heteropolycyclic –1-alkanesulfonic acid (1:1). |
| P–20–0174 | 09/30/2021 | Partition Coefficient (*n*-Octanol/Water) Estimation by Liquid Chromatography (Test Guidelines OCSPP 830.7570). | (S) 6-octen-1-ol, 3,7-dimethyl-, homopolymer, monoacetate. |
| P–20–0184 | 09/30/2021 | Partition Coefficient (*n*-Octanol/Water) Estimation by Liquid Chromatography (Test Guidelines OCSPP 830.7570) and Partition Coefficient (n-octanol/water) HPLC Method (Test Guidelines OECD 117). | (S) 6-octen-1-ol, 3,7-dimethyl-, homopolymer. |

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

*Authority:* 15 U.S.C. 2601 *et seq.*

Dated: November 9, 2021.

**Pamela Myrick,**

*Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2021–25422 Filed 11–19–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2003–0033; FRL 9295–01–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA's ENERGY STAR® Product Labeling (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's ENERGY STAR Product Labeling (EPA ICR Number 2078.08, OMB Control Number 2060–0528) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2022. Public comments were previously requested via the **Federal Register** on May 26, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before December 22, 2021.

**ADDRESSES:** Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OAR–2003–0033, to (1) EPA online using *www.regulations.gov* (our preferred method), *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** James Kwon, Climate Protection Partnerships Division, Office of Air and Radiation, Mailcode 6202A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–8538; fax number: 202–343–2200; email address: *kwon.james@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* ENERGY STAR is a voluntary program developed in collaboration with industry to create a self-sustaining market for energy efficient products. The center piece of the program is the ENERGY STAR label, a registered certification label that helps consumers identify products that save energy, save money, and help protect the environment without sacrificing quality or performance.

EPA partners with retailers, energy efficiency program sponsors (EEPS), and product brand owners who wish to use the ENERGY STAR label to differentiate products as more energy efficient. Retailers, EEPS, and product brand owners sign and submit a Partnership Application (PA) with EPA to become a partner, indicating that they voluntarily agree to fulfill the relevant program requirements referenced in the Partnership Agreement Form and Participation Form.

Prior to labeling a product as ENERGY STAR, partners have eligible products tested in an EPA-recognized laboratory and certified by an EPA-recognized third-party certification body (CB). To minimize the burden on partners, EPA maintains an automated data exchange with CBs. The CBs share information with EPA on products they review from EPA-recognized laboratories during the certification process. The XML-based data exchange allows the CBs to automatically transmit information on

certified products to EPA from their database via web services. This automated system eliminates the need for paper submissions.

The certification process also includes requirements for CBs to report to EPA products that were reviewed, but not eligible for certification, as well as to conduct post-market verification testing of a sampling of ENERGY STAR certified products. CBs complete a minimum amount of verification testing and share information with EPA on products verified twice a year. CBs report to EPA any post-market test data indicating a product may no longer meet the program requirements. While most product-related information is provided by CBs, partners are asked to submit to EPA annual unit shipment data for their ENERGY STAR certified products.

Finally, partners that wish to receive recognition for their efforts in ENERGY STAR may submit an application for the Partner of the Year Award. Partners that have ENERGY STAR certified central air conditioners, air-source heat pumps, furnaces, geothermal heat pumps, and windows that meet the ENERGY STAR Most Efficient criteria may submit an application to gain ENERGY STAR Most Efficient recognition.

*Form Numbers:* 5900–252, 5900–251, 5900–33, 5900–253, 5900–168, 5900–206, 5900–207, 5900–28, 5900–208, 5900–210, 5900–228, 5900–234, 5900–229, 5900–235, 5900–47, 5900–349, 5900–350, 5900–351, 5900–348, 5900–35, 5900–37, 5900–38, 5900–39, 5900–41, 5900–42, 5900–43, 5900–44, 5900–48, 5900–49, 5900–50, 5900–51, 5900–54, 5900–55, 5900–56, 5900–57, 5900–58, 5900–230, 5900–224, 5900–227, 5900–166, 5900–165, 5900–164, 5900–226, 5900–163, 5900–34, 5900–216, 5900–217, 5900–218, 5900–388, 5900–254, 5900–255, 5900–439, 5900–440, 5900–415, 5900–416, 5900–438, 5900–417, 5900–483.

*Respondents/affected entities:* Partners in ENERGY STAR.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 2,732.

*Frequency of response:* Initially/one-time, on occasion, semi-annually, annually.

*Total estimated burden:* 40,391 hours (per year). Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* $2,546,557 (per year), includes $0 annualized capital or operation & maintenance costs.

*Changes in the estimates:* There is no change of in the total estimated respondent burden compared with the ICR currently approved by OMB.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–25425 Filed 11–19–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OARM–2018–0229; FRL–9293–01–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Monthly Progress Reports (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), Monthly Progress Reports (EPA ICR Number 1039.16, OMB Control Number 2030–0005) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2022. Public comments were previously requested via the **Federal Register** (86 FR 16348) on March 29, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before December 22, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OARM–2018–0229, online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Shakethia Allen, Policy, Training and Oversight Division, Office of Acquisition Solutions (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–5157; email address: *allen.shakethia@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* Appropriate Government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used for various cost-reimbursable and fixed-rate contracts. Per 48 CFR 1552.211 regulations, on a monthly basis the Agency requires contractors to provide the Contracting Officer's Representative (COR) with a report detailing: (a) What was accomplished on the contract for that period, (b) expenditures for the same period of time, and (c) what is expected to be accomplished on the contract for the next month. Responses to the information collection are mandatory for contractors and are required for the contractors to receive monthly payments.

*Form Numbers:* None.

*Respondents/affected entities:* Private sector.

*Respondent's obligation to respond:* Mandatory per 48 CFR 1552.211.

*Estimated number of respondents:* 337 (total).

*Frequency of response:* Monthly.

*Total estimated burden:* 97,056 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $9,901,168 (per year), includes $0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is no change of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The loaded labor costs were adjusted upwards to account for inflation.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–25426 Filed 11–19–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FARM CREDIT ADMINISTRATION

### Privacy Act of 1974; System of Records; Corrections

**AGENCY:** Farm Credit Administration.

**ACTION:** Correction—insert date.

**SUMMARY:** On November 17, 2021, the Farm Credit Administration (FCA) issued a notice of a new system of records proposing to establish a new system of records. The Health and Safety in the Workplace Records System will collect and maintain information used for ensuring workplace health and safety in response to a public health emergency, such as a pandemic or epidemic.

**FOR FURTHER INFORMATION CONTACT:** Antonya Brown, Technical Editor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

**SUPPLEMENTARY INFORMATION:** On Wednesday, November 17, 2021, FCA published in the **Federal Register** (86 FR 64199) a notice of a new system of records. The Health and Safety in the Workplace Records System. This document corrects the date that was omitted on when FCA filed a Notice of a New System Report with Congress and the Office of Management and Budget, which was November 4, 2021.

Dated: November 17, 2021.

**Ashley Waldron,**

*Secretary, Farm Credit Administration.*

[FR Doc. 2021–25389 Filed 11–19–21; 8:45 am]

**BILLING CODE 6705–01–P**

## FEDERAL MARITIME COMMISSION

### National Shipper Advisory Committee December 2021 Meeting

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** Notice is hereby given of a meeting of the National Shipper Advisory Commission (NSAC), pursuant to the Federal Advisory Committee Act.

**DATES:** The Committee will meet by video conference on December 8, 2021, from 1:00 p.m. until 3:00 p.m. Eastern Time. Please note that this meeting may adjourn early if the Committee has completed its business.

**ADDRESSES:** The meeting will be held via video conference. The link will be provided by email to registrants in advance. Requests to register should be submitted to *nsac@fmc.gov* and contain ''REGISTER FOR NSAC MEETING'' in the subject line. The deadline for members of the public to register to attend the meeting is by 5:00 p.m. Eastern Time on Friday, December 3. Members of the public are encouraged to submit registration requests via email in advance of the deadline. The number of lines may be limited and will be available on a first-come, first-served basis. If you have accessibility concerns and require assistance, contact *secretary@fmc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Dylan Richmond, Designated Federal Officer of the National Shipper Advisory Committee, phone: (202) 523–5810; email: *drichmond@fmc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The National Shipper Advisory Committee is a federal advisory committee. It operates under the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., and 46 U.S.C. chapter 425. The Committee was established on January 1, 2021, when the National Defense Authorization Act for Fiscal Year 2021 became law. Public Law 116–283, section 8604, 134 Stat. 3388 (2021). The Committee will provide information, insight, and expertise pertaining to conditions in the ocean freight delivery system to the Commission. Specifically, the Committee will advise the Federal Maritime Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system. 46 U.S.C. 42502(b).

The purpose of the meeting is for the Committee to continue discussions around the initial issues and priorities raised by Committee members while narrowing its focus to core topics including data sharing and visibility as well as fees and surcharges. Additionally, the Committee will establish working subcommittees that will be tasked with progressing through issues organized under key headers. Finally, the 2022 meeting schedule will be discussed and formalized.

*Written Comments:* Members of the public may submit written comments to NSAC at any time. Comments would be most useful to the Committee if they address the objectives outlined in their charter or the above-mentioned topics. Comments should be addressed to NSAC, c/o Dylan Richmond, Federal Maritime Commission, 800 North Capitol St. NW, Washington, DC 20573 or *nsac@fmc.gov.*

A copy of all meeting documentation will be available at *www.fmc.gov* following the meeting.

By the Commission.

**Rachel E. Dickon,**

*Secretary.*

[FR Doc. 2021–25434 Filed 11–19–21; 8:45 am]

**BILLING CODE 6730–02–P**

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Privacy Act of 1974; System of Records

**AGENCY:** Federal Mine Safety and Health Review Commission.

**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Federal Mine Safety and Health Review Commission (FMSHRC) is issuing a notice of a new Privacy Act system of records FMSHRC–09.

**DATES:** This new system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or BEFORE December 22, 2021. The Routine Uses are effective at the close of the comment period.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Email: PrivacyAct@fmshrc.gov.* Include ''PRIVACY ACT SYSTEM OF RECORDS'' in the subject line of the message.
- *Fax:* (202) 434–9916.
- *Mail:* Privacy Act Coordinator, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710.
- *Hand Delivery/Courier:* Same as mailing address.

*Instructions:* All submissions must include your name, return address, and email address, if applicable. Please clearly label submissions as ''PRIVACY ACT SYSTEM OF RECORDS.''

**FOR FURTHER INFORMATION CONTACT:** Michael Chirico, Governmental Liaison and Policy Advisor, Office of the Chair, via telephone at (202) 434–9909 or via email at *mchirico@fmshrc.gov.*

**SUPPLEMENTARY INFORMATION:** The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires federal agencies such as FMSHRC to publish in the **Federal Register** notice of any new or modified system of records. As detailed below,

FMSHRC is issuing FMSHRC–09 to create a new system of records for reasonable accommodation requests by agency applicants and employees who request a reasonable accommodation for a medical reason or a sincerely held religious belief, and for employees who request a reasonable accommodation for protected leave to care for family, or protected leave for military service.

The notice for FMSHRC–09, provided below in its entirety, is as follows.

**SYSTEM NAME AND NUMBER:**

Workplace Requests and Reasonable Accommodation Records, FMSHRC–09.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of the Chair, FMSHRC, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710.

**SYSTEM MANAGER:**

Reasonable Accommodation Coordinator, Office of the Chair, FMSHRC, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

30 U.S.C. 823; 44 U.S.C. 3101 *et seq.;* the Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.;* Americans with Disabilities Act (''ADA''), as amended by the ADA Amendments Act of 2008, 42 U.S.C. 12101 *et seq.;* Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.;* the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 *et seq.;* the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.;* 29 CFR part 1630; and E.O. 13164 as amended by E.O. 13478.

**PURPOSE(S) OF THE SYSTEM:**

This system is maintained for the purpose of considering, deciding and implementing requests for reasonable accommodation made by Commission employees and applicants, and to preserve and maintain confidentiality of the individuals making the request.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former Commission employees and applicants who have requested reasonable accommodations for a medical reason, a sincerely held religious belief, or for protected leave.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Applicant or employee requests for reasonable accommodations; medical information; religious information; military service orders or records; notes or records made during consideration of requests; decisions on requests; and records made to implement or track decisions on requests.

**RECORD SOURCE CATEGORIES:**

Information in this system of records comes from the individual to whom it applies, and is derived from information supplied by that individual such as a doctor's statement, medical information, or military service orders or records.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

1. To an agency, organization, or individual for audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to the system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Commission officers and employees.

2. To appropriate agencies, entities, and persons when: (a) FMSHRC suspects or has confirmed that there has been a breach of the system of records; (b) FMSHRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMSHRC, the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMSHRC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. To another federal agency or federal entity, when FMSHRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) 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.

4. To an appropriate federal, state, local, foreign, or tribal or other public authority if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, background investigation, contract, or other benefit, or if the information is relevant and necessary to a Commission decision concerning the retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the vetting of a contract, or the issuance of another benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

5. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.

6. To contractors, experts, consultants, the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Commission, when necessary to accomplish an agency function related to the system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Commission officers and employees.

7. To an appropriate federal, state, tribal, local, or foreign agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

8. To the Department of Justice, the Commission's outside counsel, other federal agencies conducting litigation, or in proceedings before any court, adjudicative or administrative body, when (a) the Commission, or (b) any employee of the Commission in his or her official capacity, or (c) any employee of the Commission in his or her individual capacity where the Department of Justice or the Commission has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is

compatible with the purpose for which the Commission collected the records.

9. To the National Archives and Records Administration (NARA) for records management purposes; to the Government Accountability Office for oversight purposes; to the Department of Justice to obtain that department's advice regarding disclosure obligations under the *Freedom of Information Act* (FOIA); to NARA's Office of Government Information Services (OGIS) for record inspection purposes and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies; or to the Office of Management and Budget to obtain that office's advice regarding obligations under the Privacy Act.

10. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Commission determines that the records may be relevant and necessary to the proceeding or in an appropriate proceeding before another administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding.

11. To respond to subpoenas, specifically approved by a court, in any litigation or other proceeding, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which the Commission collected the records.

12. To a federal, state, tribal, local, or foreign government agency or entity for the purpose of consulting with that agency or entity: (a) To assist in making a determination regarding redress for an individual in connection with the operations of a Commission program; (b) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a Commission program; or (c) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

13. To such recipients and under such circumstances and procedures as are mandated by federal statute.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system are stored in paper format and electronically on a secured network drive with limited personnel access.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records in this system can be retrieved by name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Retention and disposal of records is in accordance with National Archives and Records Administration's General Records Schedule.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Access is limited to authorized individuals with passwords, cipher lock combinations, or keys. Electronic files are maintained on a secured network drive with limited user access. Access to the Commission's office in Washington, DC, may be gained only by using an electronic programmed Kastle Card, which is provided only to Commission personnel and is changed on a regular basis.

Paper records, which may exist for records of previous employees prior to electronic files, are stored in a locked file cabinet in a locked file room with access only by Commission personnel responsible for maintenance of those records. The building where the records are stored has security cameras and security guard service. The records are kept in limited access areas during duty hours and in locked file cabinets and/or locked offices or file rooms at all other times. Access is limited to those personnel whose official duties require access.

**RECORD ACCESS PROCEDURES:**

Individuals who wish to gain access to their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710. For an explanation on how such requests should be drafted, refer to the Commission's regulations contained in 29 CFR part 2705.

**CONTESTING RECORD PROCEDURES:**

Individuals who wish to contest their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710. For an explanation on the specific procedures for contesting the contents of a record, refer to the Commission's regulations contained in 29 CFR part 2705.

**NOTIFICATION PROCEDURE:**

Individuals who wish to inquire about their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710. For an explanation on the specific procedures for contesting the contents of a record, refer to the Commission's regulations contained in 29 CFR part 2705.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**HISTORY:**

None.

Dated: November 17, 2021.

**Sarah L. Stewart,**

*Deputy General Counsel, Federal Mine Safety and Health Review Commission.*

[FR Doc. 2021–25382 Filed 11–19–21; 8:45 am]

**BILLING CODE 6735–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 22, 2021.

*A. Federal Reserve Bank of Minneapolis* (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to *MA@mpls.frb.org:*

1. *Bitterroot Holding Company, Lolo, Montana;* to acquire Antler Land Company and thereby indirectly acquire Little Horn State Bank, both of Hardin, Montana.

Board of Governors of the Federal Reserve System, November 17, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–25438 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

**[File No. 211 0002/Docket No. C–4753]**

## The Golub Corporation and Tops Markets Corporation; Analysis of Agreement Containing Consent Orders To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement; request for comment.

**SUMMARY:** The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair methods of competition. The attached Analysis of Proposed Consent Orders to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before December 22, 2021.

**ADDRESSES:** Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write: ''Golub Corporation and Tops Markets Corporation; File No. 211 0002'' 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, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Lindsey Bohl (202–326–2805), Bureau of Competition, Federal Trade Commission, 400 7th Street SW, Washington, DC 20024.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis of Agreement Containing Consent Orders to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website at this web address: *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 22, 2021. Write ''Golub Corporation and Tops Markets Corporation; File No. 211 0002'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Due to protective actions in response to the COVID–19 pandemic and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Golub Corporation and Tops Markets Corporation; File No. 211 0002'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include 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 your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on *https://www.regulations.gov*—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *https://www.ftc.gov* to read this Notice and the news release describing this matter. The FTC Act and other laws 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 it receives on or before December 22, 2021. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

### Analysis of Agreement Containing Consent Orders To Aid Public Comment

### I. Introduction and Background

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from The Golub Corporation, which operates Price Chopper, Market 32, and Market Bistro stores (collectively, ''Golub'') and Tops Markets Corporation (''Tops'') (collectively, the ''Respondents'').

Pursuant to an Agreement and Plan of Merger dated February 8, 2021, Golub and Tops intend to combine their businesses through a merger (''the Merger''). The Merger will result in a combined company with nearly 300 supermarkets across six states. The purpose of the Consent Agreement is to remedy the anticompetitive effects that otherwise would result from the Merger. Under the terms of the proposed Decision and Order (''Order''), Respondents are required to divest twelve supermarkets and related assets in eleven local geographic markets (collectively, the ''relevant markets'') in New York and Vermont to a Commission-approved buyer, C&S Wholesale Grocers (''C&S''). The Commission and Respondents have agreed to an Order to Maintain Assets that requires Respondents to operate and maintain each divestiture store in the normal course of business through the date the store is ultimately divested to C&S. The Commission also issued the Order to Maintain Assets.

The Commission's Complaint alleges that the Merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, by removing a direct and substantial supermarket competitor in each of the eleven relevant markets. The elimination of this competition would result in significant competitive harm; specifically, absent a remedy, the Merger would allow the merged firm to increase prices above competitive levels, unilaterally or through coordinated interaction among the remaining market participants. Similarly, there is significant risk that the merged firm may decrease quality and service aspects of its stores below competitive levels. The proposed Order would remedy the alleged violations by requiring divestitures to replace competition that otherwise would be lost in the relevant markets because of the Merger.

The Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the comments received and decide whether it should withdraw, modify, or finalize the proposed Order.

## II. The Respondents

Respondent Golub owns and operates 131 grocery stores under the Price Chopper, Market 32, and Market Bistro banners. The Golub stores are located in New York, Connecticut, Vermont, Massachusetts, New Hampshire, and Pennsylvania.

Respondent Tops owns and operates a supermarket chain with 162 stores under the Tops banner in New York, Pennsylvania, and Vermont.

## III. Retail Sale of Food and Other Grocery Products in Supermarkets

The Merger presents substantial antitrust concerns for the retail sale of food and other grocery products in supermarkets. Supermarkets are traditional full-line retail grocery stores that sell food and non-food products that customers regularly consume at home—including, but not limited to, fresh produce and meat, dairy products, frozen foods, beverages, bakery goods, dry groceries, household products, detergents, and health and beauty products. Supermarkets also provide service options that enhance the shopping experience, including deli, butcher, seafood, bakery, and floral counters. This broad set of products and services provides consumers with a ''one-stop shopping'' experience by enabling them to shop in a single store for all of their food and grocery needs. The ability to offer consumers one-stop shopping is the critical difference between supermarkets and other food retailers.

The relevant product market includes supermarkets within ''hypermarkets'' such as Walmart Supercenters. Hypermarkets also sell an array of products not found in traditional supermarkets. Like conventional supermarkets, however, hypermarkets contain bakeries, delis, dairy, produce, fresh meat, and sufficient product offerings to enable customers to purchase all of their weekly grocery requirements in a single shopping visit.

Other types of retailers, such as hard discounters, limited assortment stores, natural and organic markets, ethnic specialty stores, and club stores, also sell food and grocery items. These types of retailers are not in the relevant product market because they offer a more limited range of products and services than supermarkets and because they appeal to a distinct customer type. Shoppers typically do not view these other food and grocery retailers as adequate substitutes for supermarkets.[1] Consistent with prior Commission precedent, the Commission has excluded these other types of retailers from the relevant product market.[2]

The relevant geographic markets in which to analyze the effects of the Merger are localized areas in which Respondents' supermarkets compete. Most of Respondents' overlapping supermarkets raising concerns are within approximately eight miles or less of each other. The contours of the relevant geographic markets depend on factors such as population density, traffic patterns, and other specific characteristics of each market. Where the Respondents' supermarkets are located in rural areas, the relevant geographic areas are larger than areas where Respondents' supermarkets are located in more densely populated cities.

Absent relief, of the eleven geographic markets, the Merger would result in a merger-to-monopoly in three markets and a merger-to-duopoly in four markets. In the remaining markets, the Merger would reduce the number of market participants from four to three in three markets and from five to four in one market.[3] Each relevant market would be highly concentrated following the Merger.

The Merger would also eliminate substantial competition between Golub and Tops and would increase the ability and incentive of the combined company to raise prices unilaterally after the Merger. The fact that few supermarket competitors will remain in each of these areas also increases the likelihood of competitive harm through coordinated interaction. The Merger would also decrease incentives to compete on non-price factors, such as service levels, convenience, and quality.

New entry or expansion in the relevant markets is unlikely to deter or counteract the anticompetitive effects of the Merger. Even if a prospective entrant existed, the entrant must secure an

[1] That is, supermarket shoppers would be unlikely to switch to one of these other types of retailers in response to a small but significant nontransitory increase in price or ''SSNIP'' by a hypothetical supermarket monopolist. *See* U.S. DOJ and FTC Horizontal Merger Guidelines § 4.1.1 (2010).

[2] *See, e.g.,* Koninklijke Ahold N.V./Delhaize Group, Docket C–4588 (Jul. 22, 2016); Cerberus Institutional Partners, L.P./Safeway, Inc., Docket C–4504 (Jul. 2, 2015); Bi-Lo Holdings, LLC/Delhaize America, LLC, Docket C–4440 (Feb. 25, 2014); AB Acquisition, LLC, Docket C–4424 (Dec. 23, 2013); Koninklijke Ahold N.V./Safeway Inc., Docket C–4367 (Aug. 17, 2012); Shaw's/Star Markets, Docket C–3934 (Jun. 28, 1999); Kroger/Fred Meyer, Docket C–3917 (Jan. 10, 2000); Albertson's/American Stores, Docket C–3986 (Jun. 22, 1999); Ahold/Giant, Docket C–3861 (Apr. 5, 1999); Albertson's/Buttrey, Docket C–3838 (Dec. 8, 1998); Jitney-Jungle Stores of America, Inc., Docket C–3784 (Jan. 30, 1998). *But see* Wal-Mart/Supermercados Amigo, Docket C–4066 (Nov. 21, 2002) (the Commission's complaint alleged that in Puerto Rico, club stores should be included in a product market that included supermarkets because club stores in Puerto Rico enabled consumers to purchase substantially all of their weekly food and grocery requirements in a single shopping visit).

[3] *See* Exhibit A.

economically viable location, obtain the necessary permits and governmental approvals, build its retail establishment or renovate an existing building, and open to customers before it could begin operating and serve as a relevant competitive constraint. As a result, new entry sufficient to achieve a significant market impact and act as a competitive constraint is unlikely to occur in a timely manner.

## IV. The Proposed Order and the Order To Maintain Assets

The proposed Order and the Order to Maintain Assets remedy the likely anticompetitive effects in the relevant markets. The proposed Order, which requires the divestiture of Tops supermarkets in each relevant market to a Commission-approved upfront buyer, C&S, will restore fully the competition that otherwise would be eliminated in these markets as a result of the Merger.

The proposed buyer appears to be a suitable purchaser well-positioned to enter the relevant markets through the divested stores and prevent the increase in market concentration and likely competitive harm that otherwise would have resulted from the Merger. The supermarkets currently owned by C&S are all located outside the relevant geographic markets in which it is purchasing divested stores.

C&S is the largest private wholesale grocery supply company and is the eleventh largest company in America. C&S has owned and operated retail stores in the past, including in certain of the relevant markets. C&S recently expanded its retail operations with the acquisition of eleven Piggly Wiggly Midwest retail stores, and hired a former retail grocery executive with significant retail experience to lead retail efforts. C&S has sufficient financing to fund the acquisition and operate the business. C&S also has sufficient distribution and supply capabilities through its wholesale business, which can efficiently supply the twelve stores.

The proposed Order requires Respondents to divest the twelve Tops stores and related assets as ongoing businesses to C&S on a rolling basis, beginning by January 17, 2022, and continuing (two stores per week) for six weeks. The proposed Order also contains additional provisions designed to ensure the adequacy of the proposed relief. For example, the proposed Order and the Order to Maintain Assets require Respondents to continue operating and maintaining the divestiture stores in the normal course of business until the date that each store is sold to C&S. If, at the time before the proposed Order is made final, the Commission determines that C&S is not an acceptable buyer, Respondents must rescind the divestiture(s) and divest the assets to a different buyer that receives the Commission's prior approval. The proposed Order imposes other terms, including the obligation to provide Transition Assistance to C&S as may be needed, an obligation to facilitate C&S's interviewing and hiring of employees, and the appointment of a Monitor to oversee the Respondents' compliance with the requirements of the proposed Order and Order to Maintain Assets. The proposed Order requires the Respondents to receive the Commission's prior approval, for a period of ten years, to acquire any interest in a supermarket that has operated or is operating in the counties in which the relevant markets are located. Finally, the proposed Order also prohibits the Respondents from entering into or enforcing agreements to restrict a new owner from operating a supermarket at any store Respondents may sell in these areas.

The proposed Order also contains a ten-year prior approval provision relating to C&S, which prohibits C&S from selling acquired stores for a period of three years after the Order is issued, except to an acquirer that receives the prior approval of the Commission. The initial three-year period is followed by an additional seven-year period during which C&S is required to receive prior approval from the Commission to sell an acquired store to a buyer that operates one or more supermarkets in the same county. Similar to the prohibition on Respondents, the proposed Order also prohibits C&S from entering into or enforcing certain restrictive covenants in any of relevant markets for the duration of the Order.

The purpose of this analysis is to facilitate public comment on the Consent Agreement and proposed Order to aid the Commission in determining whether it should make the proposed Order final. This analysis is not an official interpretation of the proposed Order and does not modify its terms in any way.

By direction of the Commission.

**April J. Tabor,**

*Secretary.*

EXHIBIT A

| State | City | Merger result | Divested store(s) |
|---|---|---|---|
| NY | Cooperstown (Otsego County) | 2 to 1 | Tops 568 |
| NY | Cortland (Cortland County) | 4 to 3 | Tops 517 |
| NY | Lake Placid/Saranac Lake (Franklin County) | 3 to 2 | Tops 707 |
| NY | Norwich (Chenango County) | 3 to 2 | Tops 569 |
| NY | Oneida/Sherrill (Oneida County) | 3 to 2 | Tops 364 |
| NY | Owego (Tioga County) | 2 to 1 | Tops 579 |
| NY | Plattsburgh/Peru (Clinton County) | 5 to 4 | Tops 713 |
| NY | Rome (Oneida County) | 4 to 3 | Tops 587 |
| NY | Warrensburg (Warren County) | 2 to 1 | Tops 701 |
| NY | Watertown (Jefferson County) | 4 to 3 | Tops 597, Tops 589 |
| VT | Rutland (Rutland County) | 3 to 2 | Tops 740 |

[FR Doc. 2021–25439 Filed 11–19–21; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–21EL]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National Learning Community for HIV CBO Leadership Evaluation'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 26, 2021 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

National Learning Community for HIV CBO Leadership Evaluation—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The Centers for Disease Control and Prevention (CDC) partners with the national HIV prevention workforce to: (1) Ensure that persons with HIV (PWH) are aware of their infection and successfully linked to medical care and treatment to achieve viral suppression, and (2) expand access to pre-exposure prophylaxis (PrEP), condoms, and other proven strategies for persons at risk of becoming infected. CDC funds state and local health departments and community-based organizations (CBOs) to optimally plan, integrate, implement, and sustain comprehensive HIV prevention programs and services for people with and at greatest risk of HIV infection, including blacks/African Americans; Hispanics/Latinos; all races/ethnicities of gay, bisexual, and other men who have sex with men (MSM); people who inject drugs (PWID); and transgender persons.

Through the CDC cooperative agreement program entitled CDC–RFA–PS19–1904: Capacity Building Assistance (CBA) for High Impact HIV Prevention Program Integration, the CDC Division of HIV/AIDS Prevention (DHAP) funds the CBA Provider Network (CPN) to deliver CBA to CDC-funded health departments and CBOs. As part of that funding, the CDC has funded the Asian & Pacific Islander American Health Forum (APIAHF) to provide community-based organization (CBO) mid-level and senior leadership state-of-the-art trainings on how to improve their management of people, programs, and organizations to optimally provide HIV prevention, treatment, and/or care services. A key foundational course for all who enroll in the Learning Community is a comprehensive overview of the national strategy on ending the HIV epidemic. This information collection evaluates the Learning Community. Specifically, CDC and APIAHF are requesting the Office of Management and Budget (OMB) to grant a three-year approval to collect data through the use of a Registration Form, a Post-Participation Survey, and a Post-Participation Semi-Structured Interview that will be administered to participants of the Learning Community.

The Learning Community participants will complete the Registration Form as part of the process for enrollment. The Learning Community Registration Form collects demographic information about participants including: (1) Business contact information (*e.g.,* email and telephone number, job title); (2) basic demographics on race, ethnicity, gender, sexual orientation, and employment setting; (3) programmatic and population areas of focus; and (4) work experience as a manager or organizational lead. After participating in the foundational courses and other course offerings over a 12-week period, participants are invited to complete the Post-Participation Survey. The Post-Participation Survey is designed to elicit information from participants about their experiences and feedback regarding the content of the courses and the delivery of the course material and other services (management coaching services are also being offered).

Also, part of the offering of the Learning Community is a 6-week Problem-Solving Intensive that is designed to help managers work though specific managerial problems using the tenants of human-centered design. At the end of the Intensive, participants will be invited to participate in a Semi-Structured Interview by Zoom where they will discuss their experiences and feedback on the Intensive. The Registration Form, Post-Participation Survey, and Post-Participation Semi-Structured Interview (for those participating in the Intensive) will be administered to CBO staff who participate in these respective Learning Community activities.

The information collected will allow APIAHF to:

(1) Identify and respond to program performance issues identified through feedback from participants;

(2) Identify potentially new courses that may be of some use to HIV CBO leadership;

(3) Provide a timely and accurate aggregated accounting of patterns of usage and enrollment trends to CDC and other state, and local agencies and other stakeholders seeking information about

the services delivered in the Learning Community.

No other federal agency collects these types of national HIV prevention capacity building data. Respondents will provide information electronically through the online Registration Form and Post-Participation Survey. The number of respondents is calculated based on an expected number of CBO managers at CDC-funded organizations, given the previous number of organizations funded by CDC. We estimate 270 CBO managers will complete the Registration Form and the Post-Participation Survey, and 135 will provide responses to the Semi-Structured Interview, annually. The total annualized burden is 89 hours. There are no other costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| CBO Managers | Registration Form | 270 | 1 | 3/60 |
| CBO Managers | Post Participation Survey | 270 | 1 | 9/60 |
| CBO Managers | Semi-Structured Zoom Interview | 135 | 1 | 15/60 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–25446 Filed 11–19–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–22–0469; Docket No. CDC–2021–0123]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Program of Cancer Registries Cancer Surveillance System. This information collection provides useful data on cancer incidence and trends.

**DATES:** CDC must receive written comments on or before January 21, 2022.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0123 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note:* Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

**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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

**Proposed Project**

National Program of Cancer Registries Cancer Surveillance System (OMB Control No. 0920–0469, Exp. 12/31/2022)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

In 2018, the most recent year for which complete incidence information is available, almost 600,000 people died of cancer and more than 1.7 million were diagnosed with cancer. It is estimated that 16.3 million Americans are currently alive with a history of cancer. In the United States, state/territory-based central cancer registries (CCR) are the only method for systematically collecting and reporting population-based information about cancer incidence and outcomes such as survival. These data are used to measure the changing incidence and burden of

each cancer; identify populations at increased or increasing risk; target preventive measures; and measure the success or failure of cancer control efforts in the United States.

In 1992, Congress passed the Cancer Registries Amendment Act which established the National Program of Cancer Registries (NPCR). The NPCR provides support for state/territory-based cancer registries that collect, manage, and analyze data about cancer cases. The state/territory-based cancer registries report information to CDC through the National Program of Cancer Registries Cancer Surveillance System (NPCR CSS), (OMB No. 0920–0469, Exp. 12/31/2022). CDC plans to request OMB approval to continue collecting this information for three years. Data definitions will be updated to reflect changes in national standards for cancer diagnosis and coding. No changes to the total estimated annualized burden hours or number of respondents are anticipated.

The NPCR CSS allows CDC to collect, aggregate, evaluate, and disseminate cancer incidence data at the national level. The NPCR CSS is the primary source of information for the *United States Cancer Statistics (USCS),* which CDC has published annually since 2002. The latest *USCS* report, published in 2021, provided cancer statistics for 99% of the U.S. population from all cancer registries in the United States. Prior to the publication of *USCS,* cancer incidence data at the national level were available for only 14% of the population of the United States.

The NPCR CSS also allows CDC to monitor cancer trends over time, describe geographic variation in cancer incidence throughout the country, and provide incidence data on racial/ethnic populations and rare cancers. These activities and analyses further support CDC's planning and evaluation efforts for state and national cancer control and prevention. In addition, datasets can be made available for secondary analysis.

Respondents are NPCR-supported central cancer registries (CCR) in 46 U.S. states, three territories, and the District of Columbia. Fifty CCRs submit data elements specified for the Standard NPCR CSS Report. Each CCR is asked to transmit two data files to CDC per year. The first NPCR CSS Standard file, submitted in January, is a preliminary report consisting of one year of data for the most recent year of data available. CDC evaluates the preliminary data for completeness and quality and provides a report back to the CCR. The second NPCR CSS Standard file, submitted by November, contains cumulative cancer incidence data from the first diagnosis year for which the cancer registry collected data with the assistance of NPCR funds (*e.g.,* 1995) through 12 months past the close of the most recent diagnosis year (*e.g.,* 2018). The cumulative file is used for analysis and reporting.

The burden for each file transmission is estimated at two hours per response. Because cancer incidence data are already collected and aggregated at the state level, the additional burden of reporting the information to CDC is small.

All information is transmitted to CDC electronically. Participation is required as a condition of the cooperative agreement with CDC. CDC requests approval for an estimated 200 annual burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Central Cancer Registries in States, Territories, and the District of Columbia. | Standard NPCR CSS Report | 50 | 2 | 2 | 200 |
| Total | | | | | 200 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–25448 Filed 11–19–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[60Day–22–22AQ; Docket No. CDC–2021–0122]**

## Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Requirement for Airlines and Operators to Collect and Transmit Designated Information for Passengers and Crew Arriving Into the United States; Requirement for Passengers to Provide Designated Information,'' which will provide CDC with the ability to collect traveler contact information from passengers and airlines to facilitate any necessary public health follow-up.

**DATES:** CDC must receive written comments on or before January 21, 2022.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0122 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffery M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note:* Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffery M. Zirger, of

the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

**Proposed Project**

Information Collection for the Requirement for Airlines and Operators to Collect and Transmit Designated Information for Passengers and Crew Arriving Into the United States; Requirement for Passengers to Provide Designated Information (42 CFR part 71.4, 71.20, 71.31, and 71.32)—New—National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The Centers for Disease Control and Prevention (CDC), a component of the Department of Health and Human Services (HHS), has the regulatory authority to collect contact information from airlines under 42 CFR 71. CDC exercises this authority to ensure that public health agencies across the United States can provide appropriate public health follow-up to travelers who may be ill or exposed to a communicable disease.

CDC announces the requirement for all airlines and operators to collect and/or maintain passenger and crew contact information (designated information), and for passengers to provide such information to airlines and operators, on flights arriving into the United States. This includes flights with intermediate stops in the United States between the flight's foreign point of origin and the final destination. Unless otherwise transmitted to the U.S. Government via established U.S. Department of Homeland Security (DHS) data systems, airlines and operators are required to retain the designated information for 30 days and transmit it within 24 hours of a request from CDC. Accurate and complete contact information is needed to protect the health of travelers and U.S. communities and for the purposes of public health follow-up.

CDC estimates burden to passengers and airline staff to be 6,191,028 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Passenger providing information to airline staff (call centers). | Passenger ''Acknowledgement'' and collection of information from passengers. | 12,300,000 | 1 | 2/60 | 410,000 |
| Passenger providing information to airline staff (airport check-in or gate agent). | Passenger ''Acknowledgement'' and collection of information from passengers. | 6,150,000 | 1 | 2/60 | 205,000 |
| Passenger providing information to travel agents. | Passenger ''Acknowledgement'' and collection of information from passengers. | 44,280,000 | 1 | 2/60 | 1,476,000 |
| Passenger entering information electronically .. | Passenger ''Acknowledgement'' and collection of information from passengers. | 60,270,000 | 1 | 2/60 | 2,009,000 |
| Airline staff (call centers) ..... | Passenger ''Acknowledgement'' and collection of information from passengers. | 12,300,000 | 1 | 2/60 | 410,000 |
| Airline staff (airport check-in or gate agent) ..... | Passenger ''Acknowledgement'' and collection of information from passengers. | 6,150,000 | 1 | 2/60 | 205,000 |
| Travel Agents ..... | Passenger ''Acknowledgement'' and collection of information from passengers. | 44,280,000 | 1 | 2/60 | 1,476,000 |
| Database administrator—Set up SAMS account. | No Form ..... | 11 | 11 | 5/60 | 10 |
| Database administrator—Transmit JSON or .cvs data via SAMS or SFTP. | No Form ..... | 22 | 5 | 10/60 | 18 |
| Total ..... | ..... | ..... | ..... | ..... | 6,191,028 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–25447 Filed 11–19–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–22–1254; Docket No. CDC–2021–0121]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Communities Organized to Prevent Arboviruses: Assessment of Knowledge, Attitudes, and Vector Control Practices and Sero-Prevalence and Incidence of Arboviral Infection in Ponce, Puerto Rico (COPA Study). The purpose of this study is to measure the incidence of arboviral infections in 38 communities in southern Puerto Rico.

**DATES:** CDC must receive written comments on or before January 21, 2022.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0121 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note:* Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

**Proposed Project**

Communities Organized to Prevent Arboviruses: Assessment of Knowledge, Attitudes, and Vector Control Practices and Sero-Prevalence and Incidence of Arboviral Infection in Ponce, Puerto Rico (COPA Study)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The four viruses that cause dengue are transmitted by *Aedes* species mosquitoes and were introduced to the Americas over the past several hundred years where they have since become endemic. Puerto Rico, a Caribbean island and U.S. commonwealth, has the highest burden of dengue virus in the U.S., and recent years have seen the emergence of two epidemic arthropod-borne viruses (arboviruses) also transmitted by *Aedes* mosquitoes. Chikungunya virus was introduced into the Caribbean in late 2013 and caused large epidemics of fever with severe joint pain throughout the Caribbean and Americas in 2014. Zika virus, the first arbovirus that can also be transmitted through sexual contact, was first detected in the Americas in 2014 and has been associated with devastating birth defects and Guillain-Barre syndrome. Yellow fever virus has recently caused large outbreaks in Brazil, and there is risk of importation to Puerto Rico and other counties in the Americas.

The public health response to the spread of these arboviruses throughout the tropics, where their mosquito vectors thrive, has been hampered by a lack of sustainable and effective interventions to prevent infection with any of these arboviruses at the community level. Moreover, the rapid speed with which new arboviruses spread does not often provide the time needed to plan and implement community-level interventions to decrease disease transmission. Although several candidate vaccines for chikungunya and Zika viruses are currently in clinical development, none are yet available. A dengue vaccine was recently recommended for children 9–16 years old with previous dengue infection and living in dengue-endemic parts of the United States. However, this will only benefit a small proportion of the population at risk for dengue infection.

The purpose of the Communities Organized to Prevent Arboviruses (COPA) project is to measure the incidence of arboviral infections and assess suitability, acceptability, and impact of community-level mosquito control interventions in 38 communities in southern Puerto Rico. The study investigators have prior experience working in these communities; however, there is minimal available information regarding the prevalence or incidence of infection with tropical arboviruses, density of Ae. aegypti mosquitos, or community members' knowledge, attitudes, and practices

regarding behaviors intended to avoid mosquitos. Such information will be needed to inform decision-making regarding the location, design, and content of mosquito control interventions to be implemented, as well as to evaluate their effectiveness in reducing the arbovirus burden. Additionally, the COPA project can act as a research platform to assess acceptability of arbovirus vaccines and other individual level prevention measures in Puerto Rico and provide community-level data on emerging diseases, including novel coronavirus 2019 (COVID–19).

CDC plans to collect demographic information (*e.g.,* age, sex, duration of time residing in Puerto Rico), travel history, and information on recent illnesses from all participants via household (and individual) questionnaires. Parents or guardians will serve as proxy respondents for children aged <7 years. The questionnaires will be administered after written consent and written or verbal assent (for minors) from those present in the household at the time of the visit. GPS coordinates will also be collected for each household visited to later assess for potential clustering of arboviral infections within communities. We will ask participants if they have been ill with arbovirus- or COVID–19-like illness (*i.e.,* fever, rash, fever, cough, sore throat, difficulty breathing, diarrhea, body pain, or loss of taste/smell in the last week) in the past week and year. If so, we will collect details on the symptoms experienced during their illness. The questionnaires will be administered to Ponce residents from the 38 communities in Ponce, Puerto Rico. Being a resident is defined by having slept in the house for at least four of the past seven nights. At the time of the questionnaire administration, ~15 mL of blood will be collected to conduct serological testing of arboviruses for a sero-survey. If the participant has COVID–19-like symptoms, an anterior nasal swab will also be collected.

The questionnaire section will vary depending on the age of each participant. The Household questionnaire will be administered to one household representative in each home with one or more COPA participants. This representative should be 21 years or older or an emancipated minor. This information is key to understand the household composition, characteristics, and use of chemical insecticides and other preventive practices. If all eligible household members are unemancipated minors, a household member over the age of 50 may act as household representative and complete this section of the survey only.

The Individual questionnaire will be administered to all participants to collect individual-level socio-demographic information. This questionnaire will collect information on past illnesses and health seeking behaviors, identify the main healthcare facilities used in the area, and estimate costs associated with acute febrile illness. Questions related to COVID–19 vaccine uptake, illness, and diagnosis are also included to describe and estimate the number of previous SARS–CoV–2 infections and evaluate the success of ongoing COVID–19 vaccination efforts in these communities.

The Mobility questionnaire will be administered to all participants to assess general individual-level mobility patterns, including time spent in and outside of the home each week. We will ask participants about the location and characteristics of places where they spend more than five hours per week to assess potential arboviral exposures outside of the home.

The assessment of Knowledge, Attitudes, and Practices (KAP) questionnaire will be administered to participants 14–50 years old to collect information on knowledge, perceptions of risk and prevention measures, and past experience with dengue and COVID–19. Data will be used to understand how community members view arboviral diseases and COVID–19, and how these perceptions relate to experience and willingness to adopt individual and community-level prevention measures. Questions related to general perceptions and confidence in vaccines will be asked to see how these relate to intentions to vaccinate against dengue and COVID–19.

A Vector Control Tools questionnaire will be administered to all household representatives to evaluate knowledge and acceptability of several mosquito control methods. This information will be shared with local governments and vector control agencies to inform selection and implementation of potential mosquito control interventions in the region.

An Acute Illness Surveillance (AIS) project component is being implemented to better identify and assess the incidence of arboviral disease and COVID–19 among COPA participants. This additional weekly activity will use an automated text-messaging system to ask COPA household representatives and other household adults who consent to receive text messages if any COPA participants in the household have experienced fever or other COVID-like symptoms in the past seven days. Project staff will contact households in which one or more participants reported symptoms to schedule an appointment to collect samples for arbovirus and SARS–CoV–2 molecular testing and to administer a AIS questionnaire about symptoms, exposure and health seeking behaviors. From previous febrile surveillance studies, we expect approximately 40% of household adults will respond to text messages each week and 10% of COPA participants will report acute symptoms and agree to a sample collection visit each year.

Participants with a positive SARS–CoV–2 molecular test will be contacted by phone 2–4 weeks later for a COVID–19 Case Follow-up questionnaire on symptoms, health care seeking, potential exposures, and outcomes of SARS–CoV–2 infection. We are expecting that 20% of participant that report symptoms will have a positive COVID–19 result and respond to this follow-up questionnaire.

The central COPA questionnaires (Household, Individual, KAP, Mobility, Vector Control) will be repeated among approximately 3,800 participants every 12 months, up to a period of five years. The AIS and COVID–19 follow-up components will be renewed and modified annually as applicable according to research and funding priorities. This project will allow us to better understand the risk, perceptions, and burden of arboviral infections and COVID–19 and evaluate a community-based approach for vector control in 38 communities in Ponce, Puerto Rico. The information obtained will inform decision making regarding the location, design, content, and evaluation of future mosquito control interventions implemented in Puerto Rico. Data on incidence and perception of COVID–19 disease will also be used to inform local control programs and fill the current knowledge gaps.

There is no burden on respondents other than the time needed to participate. Estimated annual burden is 4,309 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Ponce residents from the 38 selected communities 21 years and older or emancipated minor. | Household Representative questionnaire. | 2,700 | 1 | 10/60 | 450 |
| Ponce residents from the 38 selected communities 1–50 years old. | Individual questionnaire | 3,800 | 1 | 20/60 | 1,267 |
| Ponce residents from the 38 selected communities 1–50 years old. | Specimen Collection | 3,800 | 1 | 5/60 | 317 |
| Ponce residents from the 38 selected communities 14–50 years old. | Knowledge, Attitudes, and Practices questionnaire. | 3,090 | 1 | 15/60 | 773 |
| Ponce residents from the 38 selected communities 1–50 years old. | Mobility | 3,800 | 1 | 10/60 | 633 |
| Ponce residents from the 38 selected communities 21 years and older. | Vector Control | 2,500 | 1 | 10/60 | 417 |
| Ponce residents from the 38 selected communities 21 years and older. | AIS text message | 1,000 | 52 | 0.5/60 | 433 |
| Ponce residents from the 38 selected communities with inclusion criteria. | AIS questionnaire | 380 | 1 | 8/60 | 51 |
| Ponce residents from the 38 selected communities with inclusion criteria that tested positive for SAR–CoV–2. | COVID–19 case follow-up questionnaire. | 75 | 1 | 6/60 | 8 |
| Total | | | | | 4,309 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–25449 Filed 11–19–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10515]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by January 21, 2022.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS–10515 Payment Collections Operations Contingency Plan**

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

**Information Collection**

*1. Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Payment Collections Operations Contingency Plan; *Use:* Under sections 1401, 1411, and 1412 of the Patient Protection and Affordable Care Act (PPACA) and 45 CFR part 155 subpart D, an Exchange

makes an advance determination of tax credit eligibility for individuals who enroll in QHP coverage through the Exchange and seek financial assistance. Using information available at the time of enrollment, the Exchange determines whether the individual meets the income and other requirements for advance payments and the amount of the advance payments that can be used to pay premiums. Advance payments are made periodically under section 1412 of the PPACA to the issuer of the QHP in which the individual enrolls. Section 1402 of the PPACA provides for the reduction of cost sharing for certain individuals enrolled in a QHP through an Exchange, and section 1412 of the PPACA provides for the advance payment of these reductions to issuers. The statute directs issuers to reduce cost sharing for essential health benefits for individuals with household incomes between 100 and 400 percent of the Federal poverty level (FPL) who are enrolled in a silver level QHP through an individual market Exchange and are eligible for advance payments of the premium tax credit. Until January 2016, HHS collected data required to meet these statutory requirements via a manual system in which issuers submitted data. HHS now has an automated system that does not require issuer data submission for FFE issuers. The data collection has been used by HHS to make payments or collect charges from SBE issuers under the following programs: advance payments of the premium tax credit, advanced cost-sharing reductions, and Exchange user fees. The workbook template was used to make payments in January 2014 and will continue for issuers in states transitioning to a State-Based Exchange, as may be required based on HHS's operational progress. *Form Number:* CMS–10515 (OMB control number: 0938–1217); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 50; *Total Annual Responses:* 600; *Total Annual Hours:* 3051. (For policy questions regarding this collection contact Christelle Jang at 410–786–8438.)

Dated: November 16, 2021.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2021–25343 Filed 11–19–21; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Tribal Maternal, Infant, and Early Childhood Home Visiting Program Form 1: Demographic and Service Utilization Data (OMB #0970–0389)

**AGENCY:** Office of Child Care, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Administration for Children and Families (ACF), Office of Child Care (OCC) is requesting a 3-year extension of the Tribal Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program's Form 1: Demographic and Service Utilization Data (OMB #0970–0389; expiration 6/30/2022). There are minor updates to the existing Form 1.

**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.* Identify all requests by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* Section 511(h)(2)(A) of Title V of the Social Security Act created the MIECHV Program and authorizes the Secretary of HHS to award grants to Indian tribes (or a consortium of Indian tribes), tribal organizations, or urban Indian organizations to conduct an early childhood home visiting program. The legislation set aside 3 percent of the total MIECHV program appropriation for grants to tribal entities. Tribal MIECHV grants, to the greatest extent practicable, are to be consistent with the requirements of the MIECHV grants to states and jurisdictions and include conducting a needs assessment and establishing quantifiable, measurable benchmarks.

ACF's OCC, in collaboration with the Health Resources and Services Administration, Maternal and Child Health Bureau, awards grants for the Tribal MIECHV Program. The Tribal MIECHV grant awards support 5-year cooperative agreements to conduct community needs assessments; plan for and implement high-quality, culturally relevant, evidence-based home visiting programs in at-risk tribal communities; and participate in research and evaluation activities to build the knowledge base on home visiting among Native populations.

In Year 1 of the cooperative agreement, grantees must (1) conduct a comprehensive community needs and readiness assessment, and (2) develop a plan to respond to identified needs. Following each year that Tribal MIECHV grantees implement home visiting services, they must submit Form 1: Demographic and Service Utilization Data. The Form 1 data are used to help ACF better understand the population receiving services from Tribal MIECHV grantees and the degree to which they are using services, as well as better understand the Tribal MIECHV workforce. Overall, this information collection will provide valuable information to HHS that will guide understanding of the Tribal MIECHV Program and the provision of technical assistance to Tribal MIECHV Program grantees. Changes from the previous form are minor, including adding a virtual home visit field and revising certain terms and definitions to make reporting on the areas more concise and easier for grantees to report.

*Respondents:* Tribal MIECHV Program Grantees.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Annual number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|
| Tribal MIECHV Form 1 | 23 | 1 | 500 | 11,500 |

*Estimated Total Annual Burden Hours:* 11,500.

*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:* Title V of the Social Security Act, sections 511(e)(8)(A) and 511(h)(2)(A).

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–25408 Filed 11–19–21; 8:45 am]

**BILLING CODE 4184–43–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Measuring Human Trafficking Prevalence in Construction: A Field Test of Multiple Estimation Methods (New Collection)

**AGENCY:** Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Administration for Children and Families (ACF) is proposing a new data collection activity for Measuring Human Trafficking Prevalence in Construction: A Field Test of Multiple Estimation Methods. This study will examine the labor trafficking and other labor exploitation experiences among individuals who work in construction. The goal of this study is to advance knowledge of promising methods for estimating human trafficking prevalence by field-testing two methods of prevalence estimation within the construction industry in Houston, Texas.

**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 *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* The purpose of the proposed data collection activity is to estimate the prevalence of labor trafficking among construction workers in one location using two different sampling and estimation strategies. The proposed information collection activity is a one-time survey with up to 4,200 adults who worked in the construction industry in the selected geographic location in the 24 months prior to data collection. The construction worker survey will be offered in English and Spanish to workers identified through the following two sampling strategies: (1) Probability sample (*i.e.,* time location sample), and (2) a network sample. The survey instrument used for individuals recruited through the two different sampling strategies will be primarily the same and includes questions focused on the individuals' experiences with labor exploitation and trafficking; employment histories, including work after a natural disaster; social networks; and demographic data.

*Respondents:* English- and Spanish-speaking individuals who have worked in construction in Houston, Texas, in the 2 years prior to data collection will be invited to complete a survey.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents (total over request period) | Number of responses per respondent (total over request period) | Avg. burden per response (in hours) | Total burden (in hours) | Annual burden (in hours) |
|---|---|---|---|---|---|
| Construction Worker Survey | 4,200 | 1 | 1 | 0.5 | 2,100 |

*Estimated Total Annual Burden Hours:* 2,100.

*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:* Section 105(d)(2) of the Trafficking Victims Protection Act of 2000 (Pub. L. 106–386) [22 U.S.C. 7103].

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–25392 Filed 11–19–21; 8:45 am]

**BILLING CODE 4184–47–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–N–4465]**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Detention and Banned Medical Devices

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is

announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection for administrative detention and banned medical devices.

**DATES:** Submit either electronic or written comments on the collection of information by January 21, 2022.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 21, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 21, 2022. 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.

*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–2018–N–4465 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Detention and Banned Medical Devices.'' 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:** Jonnalynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Administrative Detention and Banned Medical Devices**

*OMB Control Number 0910–0114—Extension*

FDA has the statutory authority under section 304(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 334(g)) to detain during established inspections devices that are believed to be adulterated or misbranded. Section 800.55 (21 CFR 800.55), on

administrative detention, includes among other things certain reporting requirements (§ 800.55(g)(1) and (g)(2)) and recordkeeping requirements (§ 800.55(k)). Under § 800.55(g), an appellant of a detention order must show documentation of ownership if devices are detained at a place other than that of the appellant. Under § 800.55(k), the owner or other responsible person must supply records about how the devices may have become adulterated or misbranded, in addition to records of distribution of the detained devices. These recordkeeping requirements for administrative detentions permit FDA to trace devices for which the detention period expired before a seizure is accomplished or injunctive relief is obtained.

FDA also has the statutory authority under section 516 of the FD&C Act (21 U.S.C. 360f) to ban devices that present substantial deception or an unreasonable and substantial risk of illness or injury. Section 895.21 (21 CFR 895.21), on banned devices, contains certain reporting requirements. Section 895.21(d) describes the procedures for banning a device when the Commissioner of Food and Drugs (the Commissioner) decides to initiate such a proceeding. Under 21 CFR 895.22, a manufacturer, distributor, or importer of a device may be required to submit to FDA all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| 21 CFR section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Administrative detention reporting requirements—800.55(g) and (h) | 1 | 1 | 1 | 25 | 25 |
| Banned devices reporting requirements—895.21(d)(8) and 895.22(a) | 26 | 1 | 26 | 16 | 416 |
| Total | | | | | 441 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| 21 CFR section | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours |
|---|---|---|---|---|---|
| Records regarding device adulteration or misbranding and records of distribution of detained devices—800.55(k) ... | 1 | 1 | 1 | 20 | 20 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

During the past several years, there has been an average of less than one new administrative detention action per year. Each administrative detention will have varying amounts of data and information that must be maintained.

*Administrative Detention Reporting—§ 800.55(g)(1) and (g)(2):* A person who would be entitled to claim the devices, if seized, may appeal a detention order by submitting a written request to the FDA District Director in whose district the devices are located. This written appeal could include a request for an informal hearing as defined in section 201(y) of the FD&C Act (21 U.S.C. 321(y)). In some cases, the appellant must include documents showing that that person has the legal right to appeal this order.

*Movement of Detained Devices—§ 800.55(h)(2):* If detained devices are not in final form for shipment, the manufacturer may move them within the establishment where they are detained to complete the work needed to put them in final form. As soon as the devices are moved for this purpose, the individual responsible for their movement shall orally notify the FDA representative who issued the detention order, or another responsible district office official, of the movement of the devices. As soon as the devices are put in final form, they shall be segregated from other devices, and the individual responsible for their movement shall orally notify the FDA representative who issued the detention order, or another responsible district office official, of their new location. The devices put in final form shall not be moved further without FDA approval.

*Administrative Detention Recordkeeping—§ 800.55(k):* The firm shall have, or establish, and maintain records relating to how the detained devices may have become adulterated or misbranded, records on any distribution of the devices before and after the detention period, records on the correlation of any in-process detained devices that are put in final form, records of any changes in, or process of, the devices permitted under the detention order, and records of any movement of the detained devices.

*Procedures for Banned Devices Informal Hearing Request—§ 895.21(d)(8):* Section 895.21(d) describes the procedures for banning a device when the Commissioner decides to initiate such a proceeding. Under § 895.21(d), the Commissioner may decide to initiate a proceeding to make a device a banned device. In that event, any interested persons may submit written comments and request an informal hearing within 30 days after the date of the publication of the proposed regulation.

*Banned Devices Reporting—§ 895.22(a):* A manufacturer, distributor, or importer of a device may be required to submit to FDA all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: November 15, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021–25323 Filed 11–19–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–1978–N–0018]**

## Amending Over-the-Counter Monograph M020: Sunscreen Drug Products for Over-The-Counter Human Use; Over-The-Counter Monograph Proposed Order (OTC 000008) Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed order; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) has extended the comment period for the over-the-counter (OTC) monograph proposed order (order ID OTC000008) entitled ''Amending Over-the-Counter (OTC) Monograph M020: Sunscreen Drug Products for OTC Human Use'' (Proposed Order), which was issued on September 24, 2021. A notice of availability for the Proposed Order appeared in the **Federal Register** of September 27, 2021. FDA issued the Proposed Order to amend and revise the deemed final administrative order concerning nonprescription sunscreen drug products (Deemed Final Order) established by the enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The Proposed Order, if finalized, would replace the Deemed Final Order in its entirety with new conditions under which nonprescription sunscreen drug products would be determined to be generally recognized as safe and effective (GRASE) under the Federal Food, Drug, and Cosmetic Act (FD&C Act). It would also set forth certain characteristics that would establish that a sunscreen drug product is not GRASE. FDA has extended the comment period for the Proposed Order in response to a request for an extension to allow interested persons additional time to submit comments.

**DATES:** FDA is extending the comment period on the Proposed Order issued on September 24, 2021 (86 FR 53322). Submit electronic comments on the Proposed Order by 11:59 p.m. Eastern Time at the end of December 27, 2021.

**ADDRESSES:** You may submit comments to Order ID OTC000008 as follows. Please note that late, untimely filed comments will not be considered. Comments must be submitted electronically on or before December 27, 2021. The *https://www.regulations.gov* will accept comments at any time until 11:59 p.m. Eastern Time at the end of December 27, 2021.

*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 information that you or a third party may not wish to be publicly posted, such as medical information or 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 electronically in the manner detailed in *Instructions.*

*Instructions:* All submissions received must include the Order ID Number OTC000008 and the Docket No. FDA–1978–N–0018 for ''Amending Over-the-Counter (OTC) Monograph M020: Sunscreen Drug Products for OTC Human Use.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' will be publicly viewable on *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—Under section 505G(d) of the FD&C Act (21 U.S.C. 355h(d)), FDA must make any information submitted by any person with respect to this order available to the public upon submission, with limited exceptions. FDA will not make public information pertaining to pharmaceutical quality information, unless such information is necessary to establish standards under which a drug is generally recognized as safe and effective under section 201(p)(1) of the FD&C Act (21 U.S.C. 321(p)(1)) (see section 505G(d)(2)(B) of the FD&C Act). FDA will also not make public information that is of the type contained in raw datasets (see section 505G(d)(2)(B) of the FD&C Act). To submit a comment with this specific confidential information that you do not wish to be made publicly available, electronically submit two copies of the comment as an attachment to your comment submission. One copy will include the information that 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. The second copy, which will have the claimed information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Any information marked as ''confidential'' will not be disclosed except in accordance with section 505G(d) of the FD&C Act, and other applicable disclosure law.

*Docket:* For access to the docket to read background documents or the electronic 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 the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

**FOR FURTHER INFORMATION CONTACT:** Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 240–402–7945.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 27, 2021 (86 FR 53322), FDA announced the availability of an OTC monograph proposed order (order ID OTC000008), issued pursuant to section 505G(b) of the FD&C Act (21 U.S.C. 355g(b)) and section 3854(c)(1) of the CARES Act, entitled ''Amending Over-the-Counter (OTC) Monograph M020: Sunscreen Drug Products for OTC Human Use.'' FDA issued this Proposed Order to amend and revise the Deemed Final Order established by the enactment of the CARES Act, Public Law 116–136 (March 27, 2020).[1] This Proposed Order,

[1] To address nonprescription sunscreen drug products that are also subject to provisions in other monographs, this proposed order also proposes to amend and revise ''OTC Monograph M016, Skin Protectant Drug Products for Over-the-Counter Human Use,'' and to consolidate existing and new provisions that identify sunscreens that are not GRASE in ''Non-Monograph Conditions NM020: Sunscreen Drug Products for Over-the-Counter Human Use.''

if finalized, would replace the Deemed Final Order in its entirety with new conditions under which nonprescription sunscreen drug products would be determined to be GRASE under section 201(p)(1) of the FD&C Act (21 U.S.C. 321(p)(1)). It would also set forth certain characteristics establishing that a sunscreen drug product is not GRASE under section 201(p)(1) of the FD&C Act.

The original close of the public comment period for this Proposed Order was November 12, 2021. On November 2, 2021, the Agency received a request to extend this comment period by a minimum of 45 days, conveying concern that the original comment period did not provide sufficient time for review of the Proposed Order or for submission of needed updates related to sunscreen active ingredients about which FDA had requested additional data. FDA considered the request and extended the public comment period for the Proposed Order for an additional 45 days, until December 27, 2021.[2] This extension will allow additional time for the public to submit information related to these active ingredients (and other proposed sunscreen conditions) that has become available since the closure of the comment period on the 2019 Proposed Rule ''Sunscreen Drug Products for Over-the-Counter Human Use'' (2019 Proposed Rule).

The Agency reiterates that, as stated in the notice of availability of the Proposed Order published in the **Federal Register** on September 27, 2021, and in the Proposed Order itself, the Agency will consider all comments that were submitted to the public docket for the 2019 Proposed Rule within its comment period to be constructively submitted as comments on the Proposed Order. The Agency requests that commenters do not resubmit comments on this Proposed Order previously submitted on the 2019 Proposed Rule.

Dated: November 16, 2021.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2021–25371 Filed 11–19–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**[Document Identifier: OS–0990–0475]**

### Agency Information Collection Request. 30-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Comments on the ICR must be received on or before December 22, 2021.

**ADDRESSES:** Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

**FOR FURTHER INFORMATION CONTACT:** When submitting comments or requesting information, please include the document identifier 0990–0475, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Title of the Collection:* ASPA COVID–19 Public Education Campaign Evaluation Surveys.

*Type of Collection:* Extension.

*OMB No.:* 0990–0475.

*Abstract:* The Office of the Assistant Secretary for Public Affairs (ASPA), U.S. Department of Health and Human Services (HHS) is requesting an extension on a currently approved collection including two components: 1. COVID–19 Attitudes and Beliefs Survey (CABS), and 2. Monthly Outcome Survey (MOS). Throughout execution of the campaign, this information will primarily be used by ASPA to determine whether the campaign is having the intended impact on target audiences' (*e.g.,* parents, young adults, 65+) knowledge, attitudes, and beliefs as they relate to COVID–19, COVID–19 vaccination, and adherence to preventative behaviors. It will also keep key stakeholders informed of the Campaign's progress. Ultimately, the data will inform a thorough evaluation of the efficacy of the campaign and its impact on vaccine uptake.

**COVID–19 Attitudes and Beliefs Survey (CABS)**

The CABS is a longitudinal survey that will be fielded tri-annually to 4,000 U.S. adults for the duration of the Campaign via NORC at the University of Chicago's AmeriSpeak Panel. The survey will be fielded online, and each fielding period will last between 3 and 6 weeks. Those that respond to wave 1 of the survey will be recontacted in each wave, facilitating a comparison of COVID–19 behavior change over time for a representative sample and evaluation of U.S. adults. Panel members selected to participate in the study will receive one pre-invitation postcard in the mail, one email invitation, and three email reminders to complete the survey in each wave.

**Monthly Outcome Survey (MOS)**

The MOS is a shorter, cross-sectional survey that will be fielded monthly to 5,000 U.S. adults for the duration of the Campaign via the Ipsos KnowledgePanel 5K Omnibus Survey. The survey will be fielded online, and each fielding period will last between 7 and 10 days.

ANNUALIZED BURDEN HOUR TABLE

| | CABS | MOS |
|---|---|---|
| Hours to complete survey | 0.58 | 0.17 |
| Participants (per wave) | 4,000 | 5,000 |
| Number of waves (per year) | 3 | 12 |
| Total respondents per year | 12,000 | 60,000 |
| Total burden hours per year | 6,960 | 10,200 |

*Sum of Both Studies*

*Total respondents per year:* 72,000.
*Total burden hours per year:* 17,160.

**Sherrette A. Funn,**

*Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.*

[FR Doc. 2021–25370 Filed 11–19–21; 8:45 am]

**BILLING CODE 4150–25–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request; NIH COVID–19 Vaccination Status Form Extension

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork

[2] See *https://www.regulations.gov/document/FDA-1978-N-0018-15828.*

Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), Office of Research Services (ORS), Division of Occupational Health and Safety (DOHS) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Jessica McCormick-Ell, Ph.D., SM (NRCM), CBSP, RBP, NIH/ORS/SR/DOHS, Bldg. 13/3W80, Bethesda, MD 20892–5760 or call non-toll-free number (301) 496–0590 or Email your request, including your address to: *jessica.mccormick-ell@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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 minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Proposed Collection Title:* NIH COVID–19 Vaccination Status Form EXTENSION, 0925–0771, exp., 3/31/2022, Office of Research Services (ORS), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The purpose of the NIH COVID–19 Vaccination Status Form is to ensure the safety of the Federal workplace consistent with Executive Order 14042 Ensuring Adequate COVID Safety Protocols for Federal Contractors, Executive Order 14043 Requiring Coronavirus Disease 2019 Vaccination for Federal Employees, the COVID–19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from the Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA). The proposed information collection will be used to ensure compliance with vaccination requirements in the authorities above, generate the list of persons required to be tested on a routine basis, and will provide important information regarding safety frameworks, guidance, and procedures.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,583.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Number of respondents | Number of responses per respondent | Average time per response (in hours) | Total annual burden hour |
|---|---|---|---|---|
| Certified nurse coaches | 31,000 | 1 | 5/60 | 2,583 |
| Total | | 31,000 | | 2,583 |

Dated: November 16, 2021.

**Lawrence A. Tabak,**

*Principal Deputy Director, National Institutes of Health.*

[FR Doc. 2021–25412 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling, and Biodata Management.

*Date:* December 3, 2021.

*Time:* 2:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 6188, MSC 7804, Bethesda, MD 20892, (301) 435–1267, *belangerm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 17, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–25386 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Study Section.

*Date:* December 13, 2021.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, MSC–9823, Bethesda, MD 20892, (301) 761–7176, *dimitrios.vatakis@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 16, 2021.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–25335 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request; Federal COVID Response—Audience Feedback To Inform Ongoing Messaging and Strategies for ''Combat COVID''

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this 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.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Mikia P. Currie, Office of Policy for Extramural Research Administration, 6705 Rockledge Drive, Suite 350, Bethesda, Maryland 20892, or call a non-toll-free number (301) 435–0941 or Email your request, including your address to: *ProjectClearanceBranch@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** on September 7, 2021, page 50143 (86 FR 50143) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, any information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

*Proposed Collection:* Audience Feedback to Inform Ongoing Messaging and Strategies for ''Combat COVID,'' OMB #0925–0769, exp., date 12/31/2021, EXTENSION National Institutes of Health (NIH).

*Need and Use of Information Collection:* The purpose of the information collection is to collect routine feedback from the Combat COVID Initiative's two target audiences (the general public and healthcare providers) to identify evolving needs and better disseminate relevant information as it relates to COVID–19 treatment and Accelerating COVID–19 Therapeutic Interventions and Vaccines (ACTIV) clinical trial resources, specifically. Data collected will be used to inform the development and broad dissemination of Combat COVID resources, including new or enhanced message and material concepts (*e.g.,* social media ads, digital display ads, out-of-home ads), and/or web pages (*combatcovid.hhs.gov*). Because the COVID–19 treatment landscape continues to evolve, new evidence-based information continues to come to the forefront, and audience needs continue to change, it is critical for the Federal COVID Response (FCR) Team to collect quick audience feedback from the general public (especially from groups who have not historically been well-represented in clinical trials) and healthcare providers to identify these evolving needs. By understanding target audience needs, the FCR team will be able to properly develop and broadly disseminate relevant COVID–19 treatment and ACTIV clinical trial resources. A change request was recently submitted to update the recall stimuli (still images, audio, and video or animated images) for questions about exposure to the Combat COVID message and materials. It also removed questions that are no longer relevant and replaced them with more relevant questions about the latest COVID–19 treatment options and clinical trials.

OMB approval is requested for 1 year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 3,528.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Number of respondents | Number of responses per respondent | Average time per response (in hours) | Total annual burden hours |
|---|---|---|---|---|
| Consumer Audience Feedback Team Screener | 120 | 1 | 5/60 | 10 |
| HCP Audience Feedback Team Screener | 40 | 1 | 5/60 | 3 |
| Consumer Audience Feedback Activity | 60 | 8 | 1 | 480 |
| HCP Audience Feedback Activity | 20 | 8 | 1 | 160 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Form name | Number of respondents | Number of responses per respondent | Average time per response (in hours) | Total annual burden hours |
|---|---|---|---|---|
| Benchmark & Follow-Up Web Surveys—Consumer Audience | 2,000 | 5 | 15/60 | 2,500 |
| Benchmark & Follow-Up Web Survey—HCP Audience | 300 | 5 | 15/60 | 375 |
| Total | 2,540 | 12,300 | ..... | 3,528 |

Dated: November 16, 2021.

**Lawrence A. Tabak,**

*Principal Deputy Director, National Institutes of Health.*

[FR Doc. 2021–25413 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee to the Director, National Institutes of Health.

These meetings will be held as virtual meetings and are open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meetings will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

*Name of Committee:* Advisory Committee to the Director, National Institutes of Health.

*Date:* December 9, 2021.

*Time:* 12:00 p.m. to 6:05 p.m.

*Agenda:* NIH Director's Report, Update on COVID–19 Science, Other Business of the Committee.

*Place:* National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Name of Committee:* Advisory Committee to the Director, National Institutes of Health.

*Date:* December 10, 2021.

*Time:* 12:00 p.m. to 5:15 p.m.

*Agenda:* ACD Working Group Updates, Other Business of the Committee.

*Place:* National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, *Woodgs@od.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://acd.od.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: November 17, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–25388 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Complementary & Integrative Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The Open Session will be open to the public via NIH Videocast. The URL link to access this meeting is *https://videocast.nih.gov*.

*Name of Committee:* National Advisory Council for Complementary and Integrative Health.

*Date:* January 21, 2022.

*Closed:* 10:00 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Democracy 2, 6707 Democracy Boulevard, Bethesda, MD 20817 (Virtual Meeting).

*Open:* 11:40 a.m. to 5:00 p.m.

*Agenda:* A report from the Director of the Center and Other Staff.

*Place:* National Institutes of Health, Democracy 2, 6707 Democracy Boulevard, Bethesda, MD 20817 (Virtual Meeting).

*Contact Person:* Partap Singh Khalsa, Ph.D., DC, Director, Division of Extramural Activities, National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892–5475, 301–594–3462, *khalsap@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Any member of the public may submit written comments no later than 15 days after the meeting.

Information is also available on the Institute's/Center's home page: *https://www.nccih.nih.gov/news/events/advisory-council-79th-meeting* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: November 17, 2021.

**Victoria E. Townsend,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–25466 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Secretary, Interagency Pain Research Coordinating Committee Call for Committee Membership Nominations

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) (Department) has created the Interagency Pain Research Coordinating Committee and is seeking nominations for this committee.

**DATES:** Nominations are due by 5:00 p.m. EST on December 15, 2021.

**ADDRESSES:** Nominations must be submitted through the following webform: *https://www.surveymonkey.com/r/iprcc-member-nomination-form.*

**FOR FURTHER INFORMATION CONTACT:** Linda Porter, *porterl@ninds.nih.gov,* 301–451–4460.

**SUPPLEMENTARY INFORMATION:** As specified in Public Law 111–148 (''Patient Protection and Affordable Care Act'') the Committee will: (a) Develop a summary of advances in pain care research supported or conducted by the Federal agencies relevant to the diagnosis, prevention, and treatment of pain and diseases and disorders associated with pain; (b) identify critical gaps in basic and clinical research on the symptoms and causes of pain; (c) make recommendations to ensure that the activities of the National Institutes of Health and other Federal agencies are free of unnecessary duplication of effort; (d) make recommendations on how best to disseminate information on pain care; and (e) make recommendations on how to expand partnerships between public entities and private entities to expand collaborative, cross-cutting research.

Membership on the committee will include six (6) non-Federal members from among scientists, physicians, and other health professionals and six (6) non-Federal members of the general public who are representatives of leading research, advocacy, and service organizations for individuals with pain-related conditions. Members will serve overlapping three-year terms. It is anticipated that the committee will meet at least once a year.

The Department strives to ensure that the membership of HHS Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that the views of diverse ethnic and racial groups and people with disabilities are represented on HHS Federal advisory committees, and the Department, therefore, encourages nominations of qualified candidates from these groups. The Department also encourages geographic diversity in the composition of the Committee. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

The Department is soliciting nominations for 5 non-Federal members from among scientists, physicians, and other health professionals and for 3 non-Federal members of the general public who represent a leading research, advocacy, or service organization for people with pain-related conditions. These candidates will be considered to fill positions opened through completion of current member terms. Nominations are due by 5:00 p.m. EST on December 15, 2021, using the following webform: *https://www.surveymonkey.com/r/iprcc-member-nomination-form.*

Dated: November 15, 2021.

**Walter J. Koroshetz,**

*Director, National Institute of Neurological Disorders and Stroke, National Institutes of Health.*

[FR Doc. 2021–25452 Filed 11–19–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2021–0411]**

### Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0014

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0014, Request for Designation and Exemption of Oceanographic Research Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** You may submit comments to the Coast Guard and OIRA on or before December 22, 2021.

**ADDRESSES:** Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2021–0411]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

#### Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of

Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2021–0411], and must be received by December 22, 2021.

**Submitting Comments**

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0014.

**Previous Request for Comments**

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (86 FR 46862, August 20, 2021) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

**Information Collection Request**

*Title:* Request for Designation and Exemption of Oceanographic Research Vessels.

*OMB Control Number:* 1625–0014.

*Summary:* This collection requires submission of specific information about a vessel in order for the vessel to be designated as an Oceanographic Research Vessel (ORV).

*Need:* Title 46 U.S. Code 2113 authorizes the Secretary of the Department of Homeland Security to exempt ORVs, by regulation, from provisions of Subtitle II, of Title 46, Shipping, of the United States Code, concerning maritime safety and seaman's welfare laws. This information is necessary to ensure a vessel qualifies for the designation of ORV under 46 CFR part 3 and 46 CFR part 14, subpart D.

*Forms:* None.

*Respondents:* Owners or operators of certain vessels.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden of 36 hours a year remains.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 17, 2021.

**Kathleen Claffie,**

*Chief, Office of Privacy Management, U.S. Coast Guard.*

[FR Doc. 2021–25431 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2021–0412]**

### Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0033

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0033, Display of Fire Control Plans for Vessels; without change.

Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** You may submit comments to the Coast Guard and OIRA on or before December 22, 2021.

**ADDRESSES:** Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2021–0412]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the

Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2021–0412], and must be received by December 22, 2021.

**Submitting Comments**

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0033.

**Previous Request for Comments**

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (86 FR 46861, August 20, 2021) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

**Information Collection Request**

*Title:* Display of Fire Control Plans for Vessels.

*OMB Control Number:* 1625–0033.

*Summary:* This information collection is for the posting or display of specific plans on certain categories of commercial vessels. The availability of these plans aid firefighters and damage control efforts in response to emergencies.

*Need:* Under 46 U.S. Code 3305 and 3306, the Coast Guard is responsible for ensuring the safety of inspected vessels and has promulgated regulations in 46 CFR parts 35, 78, 97, 109, 131, 169, and 196 to ensure that safety standards are met.

*Forms:* None.

*Respondents:* Owners or operators of vessels.

*Frequency:* On occasion.

*Hour Burden Estimate:* The estimated burden remains 472 hours a year.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 17, 2021.

**Kathleen Claffie,**

*Chief, Office of Privacy Management, U.S. Coast Guard.*

[FR Doc. 2021–25430 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2021–0633]**

### National Towing Safety Advisory Committee; December 2021 Teleconference

**AGENCY:** Coast Guard, Department of Homeland Security.

**ACTION:** Notice of Federal Advisory Committee teleconference meeting.

**SUMMARY:** The National Towing Safety Advisory Committee (Committee) will meet via teleconference to discuss the election of officers, issuance of new task statements, and stand-up of the Task Statement Vetting Committee. The Committee will also discuss new tasking to include the draft final report for Towing Safety Advisory Committee Task 16–01, Subchapter M Implementation, Workgroup Item #1 that sought to identify the parameters Coast Guard officials should use to determine whether a vessel inspected under subchapters other than Subchapter M is performing ''Occasional Towing''. The meeting will be open to the public.

**DATES:**

*Meeting:* The Committee will hold its inaugural meeting by teleconference on Tuesday, December 7, 2021, from 10 a.m. until 1 p.m. Eastern Standard Time. Please note the teleconference may close early if the Committee has completed its business.

*Comments and supporting documents:* To ensure your comments are reviewed by Committee members before the teleconference, submit your written comments no later than December 1, 2021.

**ADDRESSES:** To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on December 1, 2021, to obtain the needed information. The number of teleconference lines are limited and will be available on a first-come, first-served basis.

*Instructions:* You are free to submit comments at any time, including orally at the teleconference, but if you want Committee members to review your comments before the teleconference, please submit your comments no later than December 1, 2021. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2021–0633]. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy and Security notice available on homepage of *https://www.regulations.gov* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

*Docket Search:* Documents mentioned in this notice as being available in the docket, and public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions.

**FOR FURTHER INFORMATION CONTACT:** Mr. Matthew D. Layman, Designated Federal Officer of the National Towing Safety Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone

202–372–1421, fax 202–372–1421 or *Matthew.D.Layman@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given in accordance with the *Federal Advisory Committee Act* (5 U.S.C. appendix). The National Towing Safety Advisory Committee was established on December 4, 2018, by section 601 of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Pub. L. 115–282, 132 Stat. 4192). That authority is codified in 46 U.S.C. 15108. The Committee operates under the provisions of the Federal Advisory Committee Act and, in addition, the administrative provisions of 46 U.S.C. 15109. The Committee provides advice and recommendations to the Department of Homeland Security on matters related to shallow-draft inland navigation, coastal waterway navigation, and towing safety.

**Agenda**

The agenda for the December 7, 2021, teleconference meeting is as follows:

(1) Call to Order.

(2) Roll call and determination of quorum.

(3) Opening Remarks.

(4) Swearing-in of new members.

(5) Election by Committee members of the Chairperson and Vice Chairperson.

(6) Establishment of the Task Statement Vetting Committee.

(7) Issuance of New Task Statements.

(8) Review of Draft Final Report for legacy Task 16–01: Subchapter M Implementation, Workgroup Item #1-Criteria Used to Apply the Term ''Occasional Towing.

(9) Update from the Office of Commercial Vessel Compliance on the status of Subchapter M Implementation.

(10) Update from the Towing Vessel National Center of Expertise.

(11) Public Comment period.

A copy of all pre-meeting documentation will be available at *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/Office-of-Operating-and-Environmental-Standards/vfos/TSAC/.* Alternatively, you may contact Mr. Matthew Layman as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

During the December 7, 2021 teleconference, a public comment period will be held from approximately 12:30 p.m. to 1 p.m. Eastern Standard Time. Speakers are requested to limit their comments to 3 minutes. Please note that this public comment period may start before 12:30 p.m. if all other agenda items have been covered and may end before 1 p.m. if all of those wishing to comment have done so.

Please contact Mr. Matthew D. Layman, listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Dated: November 16, 2021.

**Jeffrey G. Lantz,**

*Director of Commercial Regulations and Standards.*

[FR Doc. 2021–25328 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2014–0713]**

### Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–NEW

**AGENCY:** Coast Guard, DHS.

**ACTION:** Thirty-day notice requesting comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for the following collection of information: 1625–NEW, State Registration Data. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

**DATES:** You may submit comments to the Coast Guard and OIRA on or before December 22, 2021.

**ADDRESSES:** Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2014–0713]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

**FOR FURTHER INFORMATION CONTACT:** A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2014–0713], and must be received by December 22, 2021.

**Submitting Comments**

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public

comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625—NEW.

**Previous Request for Comments**

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (86 FR 40604, July 28, 2021) required by 44 U.S.C. 3506(c)(2). The U.S. Coast Guard Office of Auxiliary and Boating Safety received one comment in response to our 60-day notice. The commenter expressed their support for the collection of information stating that the USCG should be allowed to collect the necessary information. The commenter also stated this rule is likely to result in a reduced reporting burden for the states; this, however, is in comparison to the form(s) the states have been using for the annual summary and submission of recreational vessel registration data to the Coast Guard, and not with regard to the substantial data collection and capture requirements that were imposed by the final rule. The commenter continued by stating they strongly encourage the expeditious, formal approval of this information collection request and authorization of the accompanying Form CGHQ–3923 to alleviate uncertainties among the states as to how and to what level of detail these data should be reported to the Coast Guard; and, they strongly encourage the Coast Guard's development and adoption of instructions for the states' use in completing both the Application for Certificate of Number (33 CFR 174.17) and the Form CGHQ–3923, for the sake of data consistency. Accordingly, no changes have been made to the Collection.

**Information Collection Request**

*Title:* State Registration Data.

*OMB Control Number:* 1625–NEW.

*Summary:* This Notice provides information on the collection of registration data from the State reporting authorities.

*Need:* Title 46 U.S.C. 12302 and 33 CFR 174.123 authorizes the collection of this information.

*Forms:* CG–3923, State Registration Data.

*Respondents:* 56 State reporting authorities respond.

*Frequency:* Annually.

*Hour Burden Estimate:* This is a new information collection request. The estimated burden is 42 hours a year.

*Authority:* The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 17, 2021.

**Kathleen Claffie,**

*Chief, Office of Privacy Management, U.S. Coast Guard.*

[FR Doc. 2021–25433 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2021–0002; Internal Agency Docket No. FEMA–B–2179]**

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** Comments are to be submitted on or before February 22, 2022.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2179, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered

an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

| Community | Community map repository address |
|---|---|
| **Hardin County, Illinois and Incorporated Areas<br>Project: 12–05–8929S Preliminary Date: June 30, 2021** | |
| City of Rosiclare | City Hall, 632 Main Street, Rosiclare, IL 62982. |
| **Dickinson County, Kansas and Incorporated Areas<br>Project: 17–07–0009S Preliminary Date: August 25, 2021** | |
| City of Abilene | Office of the City Inspector, 419 North Broadway, Abilene, KS 67410. |
| City of Chapman | City Hall, 446 North Marshall Street, Chapman, KS 67431. |
| City of Enterprise | City Hall, 206 South Factory Street, Enterprise, KS 67441. |
| City of Herington | City Office, 17 North Broadway, Herington, KS 67449. |
| City of Solomon | City Office, 116 West Main Street, Solomon, KS 67480. |
| Unincorporated Areas of Dickinson County | Dickinson County Courthouse, 109 East 1st Street, Suite 202, Abilene, KS 67410. |
| **Doniphan County, Kansas and Incorporated Areas<br>Project: 19–07–0076S Preliminary Date: April 2, 2021** | |
| City of Elwood | City Hall, 207 North 6th Street, Elwood, KS 66024. |
| City of Highland | City Hall, 220 West Main Street, Highland, KS 66035. |
| City of Leona | Doniphan County Planning & Zoning, 120 East Chestnut Street, Troy, KS 66087. |
| City of Severance | Doniphan County Planning & Zoning, 120 East Chestnut Street, Troy, KS 66087. |
| City of Troy | City Hall, 137 West Walnut Street, Troy, KS 66087. |
| City of Wathena | City Hall, 206 St. Joseph Street, Wathena, KS 66090. |
| City of White Cloud | Doniphan County Planning & Zoning, 120 East Chestnut Street, Troy, KS 66087. |
| Iowa Tribe of Kansas and Nebraska | Tribal Administrative Office, 3345B Thrasher Road, White Cloud, KS 66094. |
| Unincorporated Areas of Doniphan County | Doniphan County Planning & Zoning, 120 East Chestnut Street, Troy, KS 66087. |
| **Stone County, Missouri and Incorporated Areas<br>Project: 19–07–0060S Preliminary Date: July 19, 2021** | |
| City of Branson West | City Hall, 110 Silver Lady Lane, Branson West, MO 65737. |
| City of Crane | City Hall, 120 North Commerce Street, Crane, MO 65633. |
| City of Galena | City Hall, 111 Main Street, Galena, MO 65656. |
| City of Hurley | City Hall, 202 South Walnut Street, Hurley, MO 65675. |
| City of Reeds Spring | City Hall, 22597 Main Street, Reeds Spring, MO 65737. |
| Unincorporated Areas of Stone County | Stone County Courthouse, 108 East 4th Street, Galena, MO 65656. |
| Village of McCord Bend | Stone County Courthouse, 108 East 4th Street, Galena, MO 65656. |

[FR Doc. 2021–25375 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2021–0024]**

### Request for Information on the National Flood Insurance Program's Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats; Public Meeting; Extension of Comment Period

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Announcement of additional public meeting; extension of comment period.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is extending the public comment period for its request for information published October 12, 2021, and will hold an additional virtual public meeting via web conference to solicit feedback on the request for information The October request for information sought input from the public on the floodplain management standards that communities should adopt to result in safer, stronger, and more resilient communities. It also sought input on how the National Flood Insurance Program (NFIP) can better promote protection of and minimize any adverse impact to, threatened and endangered species, and their habitats.

**DATES:** Written comments on the request for information published at 86 FR 56713 (Oct. 12, 2021) may be submitted until 11:59 p.m. Eastern Time (ET) on Thursday, January 27, 2022.

FEMA will hold an additional public meeting on Wednesday, December 15, 2021, from 3 p.m. to 4:30 p.m. ET. Depending on the number of speakers, the meeting may end before the time indicated, following the last call for comments.

**ADDRESSES:** The public meeting will be held via web conference. Members of the public may register to attend the meeting online at the following link: *https://www.fema.gov/event/public-comment-period-national-flood-insurance-programs-minimum-floodplain-management.*

If you would like to speak at the meeting, please indicate that on the registration form. If there is time remaining in the meeting after all registered speakers have finished, FEMA will invite comments from others in attendance. Also, Spanish language interpretation services will be made available for this meeting.

Reasonable accommodations are available for people with disabilities. To request a reasonable accommodation, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible. Last minute requests will be accepted but may not be possible to fulfill.

Written comments on the request for information must be submitted via the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for FEMA–2021–0024–0001 and follow the instructions for submitting comments.

All written comments received, including any personal information provided, may be posted without alteration at *https://www.regulations.gov.* All comments on the request for information made during the meetings will be posted to the rulemaking docket on *https://www.regulations.gov.*

For access to the docket and to read comments received by FEMA, go to *https://www.regulations.gov* and search for Docket ID FEMA–2021–0024–0001.

**FOR FURTHER INFORMATION CONTACT:** Rachel Sears, Supervisory Emergency Management Specialist, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, *fema-regulations@fema.dhs.gov,* 202–646–4105.

**SUPPLEMENTARY INFORMATION:** On October 12, 2021, FEMA published a Request for Information (RFI) on the National Flood Insurance Program's (NFIP) Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and Their Habitats.[1] That RFI asked for public input on the floodplain management standards that communities should adopt to result in safer, stronger, and more resilient communities. It also sought input on how the NFIP can better promote protection of and minimize any adverse impact to threatened and endangered species, and their habitats.

In support of FEMA's role in setting the NFIP floodplain management standards for land management and use and the agency's desire to strengthen the NFIP's protection of threatened and endangered species and their habitat, the agency is seeking input from the public on the floodplain management standards that communities should adopt to result in safer, stronger, and more resilient communities and to promote protection of listed species and their critical habitats. Specifically, FEMA is seeking input through a series of questions in the RFI on opportunities for the agency to improve the minimum floodplain management standards for land management and use which better align the NFIP with the current understanding of flood risk and flood risk reduction approaches. See, 86 FR 56713. Current FEMA floodplain management standards for flood-prone area regulations have not been revised since they were implemented in 1976. The agency is considering revision to these regulations based on its current understanding of flood risk and flood risk reduction approaches and is now taking a thorough review of the floodplain management standards, along with prior published studies and reports, to determine how these standards can best meet FEMA and stakeholder needs.[2]

FEMA is also re-evaluating the implementation of the NFIP under the Endangered Species Act at the national level to complete a revised Biological Evaluation [3] re-examining how NFIP actions influence land development decisions; the potential for such actions to have adverse effects on listed species and critical habitats; and to identify program changes to mitigate adverse effects to avoid jeopardy to listed species and/or critical habitats. Public feedback will help FEMA with this process.

FEMA is holding an additional public meeting and extending the comment period for an additional 45 days until January 27, 2022, to ensure all interested parties have sufficient opportunity to provide comments on FEMA programs. As the RFI seeks information regarding a series of questions, the public may wish to review the RFI in advance of the meeting. The RFI is found at 86 FR 56713. FEMA will carefully consider all relevant comments received during the meeting, and during the rest of the RFI's comment period. All comments or remarks provided on the request for information during the meeting will be

[1] 86 FR 56713.

[2] *See* generally ''National Flood Insurance Program: Evaluation Studies'' found at *http://www.fema.gov/flood-insurance/rules-legislation/2006-evaluation* (last accessed November 4, 2021) and ''Building Codes Save: A Nationwide Study of Loss Prevention'' found at *http://www.fema.gov/emergency-managers/risk-management/building-science/building-codes-save-study* (last accessed November 4, 2021) among others.

recorded and posted to the rulemaking docket on *https://www.regulations.gov.*

The purpose of this additional public meeting is to seek feedback on the agency's request for information on the NFIP Floodplain Management Standards for Land Management and Use, and an Assessment of the Program's Impact on Threatened and Endangered Species and their Habitats published October 12, 2021. Individuals cannot apply for FEMA assistance by submitting a comment in the **Federal Register** or at these public meetings. If you are an individual who has been impacted by a disaster and you are seeking assistance from FEMA, please visit *https://www.fema.gov/assistance/individual* or call the FEMA Helpline (1–800–621–3362/TTY (800) 462–7585) to apply or receive information on a pending request.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–25336 Filed 11–19–21; 8:45 am]

**BILLING CODE 9111–47–P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### Intent To Request Extension From OMB of One Current Public Collection of Information: Federal Flight Deck Officer Program

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 60-Day notice.

**SUMMARY:** The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0011, that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection requires interested volunteers to fill out an application to determine their qualification for participating in the Federal Flight Deck Officer (FFDO) Program.

**DATES:** Send your comments by January 21, 2022.

**ADDRESSES:** Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh at the above address, or by telephone (571) 227–2062.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

#### Information Collection Requirement

*OMB Control Number 1652–0011; Federal Flight Deck Officer Program.* TSA initially required this information collection under the authority of the Arming Pilots Against Terrorism Act (APATA), Title XIV of the Homeland Security Act (Nov. 25, 2002), sec. 1402(a), as amended by Title VI of the Vision 100—Century of Aviation Reauthorization Act (Vision 100) (Dec. 12, 2003), sec. 609(b). Public Law 107–296, 116 Stat. 2300, as codified at 49 U.S.C. 44921, as amended by Public Law 108–176, 117 Stat. 2570. TSA is seeking to renew this information collection in order to continue collecting the information described in this notice to comply with its statutory mission. The APATA required TSA to establish a program to deputize volunteer pilots of passenger air carriers as Federal law enforcement officers to defend the flight deck of their aircraft against acts of criminal violence or air piracy. With the enactment of Vision 100, eligibility to participate in the FFDO program expanded to include pilots of all-cargo aircraft, as well as flight engineers and navigators on both passenger and cargo aircraft.

In order to screen volunteers for entry into the FFDO program, TSA collects information from applicants, including name, address, prior address information, personal references, criminal history, limited medical information, financial information, and employment information, through comprehensive applications they submit to TSA. In addition, TSA conducts an interview with each applicant. Based on the average number of new applicants to the FFDO program, TSA estimates a total of 1,796 respondents annually. TSA estimates that the online application will take one hour for each applicant to complete, plus 10 minutes per applicant for the interview, for a total burden of 2,095 hours.

Dated: November 17, 2021.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Information Technology.*

[FR Doc. 2021–25423 Filed 11–19–21; 8:45 am]

**BILLING CODE 9110–05–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCA930000–L14400000–ET0000; CACA–54926]**

### Public Land Order No. 7904; Withdrawal of National Forest System Land for the Spanish Creek Campground; California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This Public Land Order (PLO) withdraws 82.50 acres of National Forest System land from location and entry under the United States mining laws, but not from leasing under the mineral leasing laws, for a period of 20 years to protect the recreation resources at the Spanish Creek Campground located in the Plumas National Forest, California. The land has been and will remain open to such forms of disposition allowed by law on National Forest System land.

**DATES:** This PLO takes effect on November 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Heather Daniels, Bureau of Land Management (BLM) California State Office, telephone: (916) 978–4674, email: *hdaniels@blm.gov;* Leslie Edlund, Plumas National Forest, Mount Hough Ranger District, telephone: (530) 283–7650, email: *leslie.edlund@usda.gov;* or Zarreen Ali, Forest Service Regional Office, telephone: (707) 562–8964, email: *zzali@fs.fed.us* during regular

business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact any of the above individuals. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The United States Forest Service will manage the lands to protect the recreation resources at the Spanish Creek Campground.

**ORDER**

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws or disposal under the Mineral Materials Act of 1947, to protect the recreational resources within the Spanish Creek Campground in Plumas National Forest.

**Mount Diablo Meridian**

T. 25 N., R. 9 E.,
sec 15, W1/2NE1/4SW1/4, NE1/4SW1/4SW1/4, NW1/4SE1/4SW1/4, W1/2NE1/4SE1/4SW1/4, E1/2NW1/4SW1/4, W1/2E1/2NE1/4SW1/4, S1/2SE1/4SW1/4NW1/4, and SE1/4SW1/4SW1/4NW1/4.

The area described contains 82.50 acres in Plumas County.

2. The withdrawal made by this order does not alter the applicability of those laws governing the use of National Forest System lands under lease, license, or permit, or governing the disposal of the mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

(Authority: 43 CFR 2300)

**Shannon A. Estenoz,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2021–25383 Filed 11–19–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[223.LLHQ230000.L11700000.PI0000. LXSGCO000000]**

## Notice of Intent To Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) intends to address the management of Greater sage-grouse (GRSG) and sagebrush habitat on BLM-managed public lands in the States of California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming through a land use planning initiative. The BLM will prepare environmental impact statements to support the planning initiative, and by this notice is announcing the beginning of the scoping process to solicit public comments on the planning initiative.

**DATES:** Comments may be submitted in writing until February 7, 2022. The date(s) and location(s) of any public meetings associated with this land use planning initiative will be announced at least 15 days in advance through local news media, newspapers, and the BLM website at: *https://go.usa.gov/xMtJQ.* To afford the BLM the opportunity to consider issues raised by commenters in its analysis, please ensure that your comments are received prior to the close of the 75-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide further public involvement opportunities as appropriate, consistent with the NEPA and land use planning processes, including a 90-day comment period on any draft land use plan amendment/environmental impact statement (EIS); and a 30-day public protest period and 60-day Governor's consistency review on any proposed land use plan amendment/final EIS.

**ADDRESSES:** You may submit comments related to the BLM's intent to amend land use plan decisions regarding management of GRSG and sagebrush habitat on BLM-managed public lands on the BLM website at: *https://go.usa.gov/xMtJQ,* where pertinent documents may also be examined.

**FOR FURTHER INFORMATION CONTACT:** Patricia Deibert, National Sage-grouse Coordinator (Acting); email: *BLM_HQ_GRSG_Planning@blm.gov;* address: 440 W 200 S Suite 500, Salt Lake City, Utah 84101; telephone: 307–757–3709. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Deibert during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM amended or revised land use plans in 2014 and 2015 in the States of California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming (2015 Sage-Grouse Plan Amendments) to provide for GRSG conservation on public lands. Subsequently, the BLM amended several of those plans in 2019 in the States of California, Colorado, Idaho, Nevada, Oregon, Utah, and Wyoming (2019 Sage-Grouse Plan Amendments). On October 16, 2019, the United States District Court for the District of Idaho preliminarily enjoined the BLM from implementing the 2019 Sage-Grouse Plan Amendments (Case No. 1:16–CV–83–BLW).

Since the completion of these Sage-Grouse Plan Amendments, the BLM has found that 2019 Sage-Grouse Plan Amendments (and for Montana, North Dakota, and South Dakota, the 2015 Sage-Grouse Plan Amendments) are potentially inconsistent with new science and rapid changes affecting the BLM's management of the public lands, including the effects of climate change (*e.g.,* drought, loss of habitat, more frequent wildland fires, less riparian areas).

The BLM is initiating this land use planning process under the authority of Section 202 of FLPMA and its implementing regulations at 43 CFR part 1600, and in compliance with NEPA, to evaluate alternative management approaches to contribute to the conservation of GRSG and sagebrush habitats and to evaluate the impacts of any land use planning decisions directed toward GRSG and sagebrush habitat conservation. The land use planning process will address the management of GRSG and sagebrush habitat on BLM-managed public lands in the States of California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming.

The public is invited to comment on the BLM's preliminary purpose and

need for action, as well as provide data relevant to inform this planning initiative. The BLM's preliminary need is to amend land use plans to address issues related to GRSG land management raised by various interested parties; consider recent developments in relevant science; advance implementation of the Department of the Interior's Climate Action Plan; and address continued GRSG and sagebrush habitat loss and GRSG population declines. The BLM's preliminary purpose is to amend the applicable land use plans to provide for land use decisions that respond to changed conditions related to GRSG land management and provide the BLM with locally relevant decisions that accord with range-wide GRSG conservation goals. The BLM expects to refine this preliminary purpose and need following the review of comments or data received and further review of its own resource information.

To assist the BLM to refine this preliminary purpose and need and formulate the environmental analyses, the public is encouraged to identify any issues, management questions, or concerns for the BLM to address in the land use plan amendments. The BLM invites the public to comment on issues related to the relationship between GRSG and sagebrush habitat management and management for other public land resources and values. The BLM seeks comment on preliminary issues from both range-wide and state-specific perspectives. In particular, the BLM seeks comment on potential alternatives to address land management on BLM-managed public lands related to the following preliminary issues:

- The identification, management, and conservation of the most important GRSG and sagebrush habitat, referred to as ''Sagebrush Focal Areas'' in the 2015 and 2019 Sage-Grouse Plan Amendments;
- The designation of priority and general habitat management areas for GRSG, and how to adapt these management areas over time, according to the best available science, and how to manage non-habitat within habitat management areas;
- The appropriate habitat objectives for GRSG on public lands, with respect to the diverse habitat conditions across the range of GRSG, including the effects of climate change (*e.g.,* drought conditions);
- The application of the mitigation hierarchy, including compensatory mitigation, to address impacts to GRSG and sagebrush habitat, ensure that additional disturbance will not contribute to GRSG and sagebrush habitat loss and GRSG population declines, and help support the conservation and restoration of resilient habitat;
- The approaches to minimizing disturbance to GRSG and sagebrush habitats, including disturbance/density caps and buffers around important GRSG habitat types (*e.g.,* leks), to ensure appropriate protection for the species while being able to concurrently implement other portions of the BLM's management responsibilities;
- The leasing and development of mineral resources in GRSG and sagebrush habitat, including how to appropriately prioritize and manage such use of the public's resources and how to consider the use of waivers, exceptions, and modifications as related to development of mineral resources;
- The leasing and development of renewable energy resources in GRSG and sagebrush habitat, including associated transmission lines, to support the mitigation of and adaptation to the effects of climate change through both habitat conservation and the expansion of renewable energy:
- The appropriate management of livestock grazing and wild horse and burro populations in GRSG and sagebrush habitat;
- The strategies for conducting effective GRSG and sagebrush habitat restoration on BLM-managed public lands, including constraints on such efforts to avoid unintended consequences to other species' habitats;
- The process to adapt the BLM's management of GRSG and sagebrush habitat to respond to GRSG and sagebrush habitat loss and GRSG population declines;
- The role of wildland fire and invasive species in the management of GRSG and sagebrush habitat, considering the vast acreages lost to wildland fire and invasive species over the last several years;
- The strategies for short- and long-term monitoring of GRSG and sagebrush habitat;
- How new and relevant scientific information affects GRSG and sagebrush habitat management, building upon the existing foundation of science relied upon in the 2015 and 2019 Sage-Grouse Plan Amendments; and
- Whether the BLM should reconsider alternatives from the analyses supporting the 2015 and 2019 Sage-Grouse Plan Amendments.

The BLM also invites the public to nominate or recommend areas that may be considered for designation as areas of critical environmental concern (ACEC), per 43 CFR 1610.7–2. Nominations or recommendation of potential ACECs should be relevant to the preliminary purpose and need of this planning initiative.

The BLM has identified the following preliminary planning criteria and is accepting public input during the scoping period consistent with 43 CFR 1610. 4–2(c):

- The land use plan amendments and associated environmental analyses developed will be completed in compliance with FLPMA and NEPA, respectively;
- The land use plan amendments will be completed in compliance with all relevant Federal laws, Executive Orders, and management policies of the BLM;
- Where existing planning decisions are still valid, those decisions may remain unchanged and be incorporated into the amended land use plans;
- The land use plan amendments will be limited to making land use planning decisions specific to the conservation of GRSG and sagebrush habitats, with consideration of the impacts from climate change;
- The BLM will consider the adequacy of conservation measures for GRSG in existing land use plans;
- The land use plan amendments will be considered with respect to climate change and the accelerating effects that climate change has on GRSG and sagebrush habitats;
- The BLM will strive for consistency, as appropriate, with GRSG conservation plans of other Federal agencies, State agencies, and partners;
- The BLM will endeavor to use current scientific information, research, technologies, and results of inventory, monitoring, and coordination to determine appropriate management strategies that will enhance or restore GRSG and sagebrush habitats;
- Lands addressed in the land use plan amendments will be for BLM-managed public lands (including surface and sub-surface estate, including split estate) in GRSG and sagebrush habitats; and
- The land use plan amendments will recognize valid existing rights.

In addition to public input, the BLM is reviewing the 2015 and 2019 Sage-Grouse Plan Amendments and coordinating with other Federal and State agencies to identify issues that warrant clarification or reconsideration. This review and coordination effort is continuing and will help to refine and inform the scope of the BLM's land use planning initiative, as will input from other stakeholders.

The BLM will work collaboratively with interested parties to identify land use planning decisions that are best

suited to local, regional, and national needs and concerns. The BLM will use an interdisciplinary approach including, among others, specialists in the fields of wildlife, threatened and endangered species, rangeland, invasive species, fuels, energy and minerals, and recreation management to develop any land use plan amendment(s) to address the variety of resource issues and concerns identified. The BLM will consider all comments received during this scoping effort and utilize the substantive comments received to identify alternatives, analysis issues, and refinements to the scope of this planning initiative.

The BLM will utilize and coordinate the NEPA and land use planning processes for this planning initiative to help support procedural requirements under the National Historic Preservation Act (54 U.S.C. 306108) and Endangered Species Act (16 U.S.C. 1536). The information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian Tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Federal, State, and local agencies, along with Tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the EISs as a cooperating agency.

You may submit comments through the methods described in the **ADDRESSES** section listed earlier. 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.

(Authority: 40 CFR 1501.7 and 43 CFR 1610.2)

**David Jenkins,**

*Assistant Director, Resources and Planning.*

[FR Doc. 2021–25393 Filed 11–19–21; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLHQ310000.L13100000.PP0000; OMB Control No. 1004–0185]**

### Agency Information Collection Activities; Onshore Oil and Gas Leasing, and Drainage Protection

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Land Management (BLM) proposes to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before December 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection request (ICR) should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Jennifer Spencer by email at *j35spenc@blm.gov,* or by telephone at 307–775–6261. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on August 9, 2021 (86 FR 43563). One comment was received in response to that notice. The commentor noted that an annual frequency of collection was too frequent for this collection of information and that the frequency should be every three years. However, the information is not collected annually but rather on occasion initiated by certain events pursuant to covered onshore oil and gas leases.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The BLM collects information to monitor and enforce compliance with drainage protection and other requirements pertaining to Federal and Indian oil and gas leasing and operations (except on the Osage Reservation). This request of for OMB to renew this OMB control number for an additional three years.

There are no program or policy changes proposed with this renewal request. However, the BLM is projecting that the estimated burden for this OMB control number will be adjusted downward. Therefore, the BLM request a reduction of 5,241 annual burden hours (from 42,936 to 37,695) and a reduction of $2,526,933 annual non-hour burden cost (from $3,278,348 to $751,415). These adjustments are a result of a reduction in the number of respondents to the collections of information under OMB control number 1004–0185 (from 19,711 to 9,131) and updating the number of responses for certain information collections activities.

*Title of Collection:* Onshore Oil and Gas Leasing, and Drainage Protection (43 CFR parts 3100, 3120, and 3150, and Subpart 3162).

*OMB Control Number:* 1004–0185.

*Form Numbers:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Holders of onshore oil and gas lease and public lands and Indian lands (except on the Osage Reservation), operators of such leases, and holders of operating rights on such leases.

*Total Estimated Number of Annual Respondents:* 9,131.

*Total Estimated Number of Annual Responses:* 9,132.

*Estimated Completion Time per Response:* Varies from 1 hour to 24 hours per response, depending on activity.

*Total Estimated Number of Annual Burden Hours:* 37,695.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* ''On occasion,'' except for the activity titled ''Option statement,'' which is required twice a year.

*Total Estimated Annual Non-Hour Burden Cost:* $751,415.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Darrin King,**

*Information Collection Clearance Officer.*

[FR Doc. 2021–25331 Filed 11–19–21; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Ocean Energy Management

**[Docket No. BOEM–2021–0047]**

## Notice of Additional Public Scoping and Name Change for the Vineyard Wind South Project Offshore Massachusetts Environmental Impact Statement

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of additional public scoping; request for comments.

**SUMMARY:** On June 30, 2021, BOEM published the ''Notice of Intent to Prepare an Environmental Impact Statement for the Vineyard Wind South Project Offshore Massachusetts'' in the **Federal Register**. The Notice of Intent (NOI) announced that BOEM will prepare an environmental impact statement (EIS) to inform its review of a construction and operations plan (COP) submitted by Vineyard Wind, LLC (Vineyard Wind). This notice provides updated project information related to potential changes in cable routing and announces an additional EIS public scoping comment period to account for the new information. Detailed information about the proposed wind energy facilities, including an updated COP, can be found on BOEM's website at: *www.BOEM.gov/New-England-Wind.* Also, this notice formally announces that the project's name has changed from Vineyard Wind South to New England Wind.

**DATES:** Comments are due to BOEM no later than December 22, 2021.

**ADDRESSES:** Written comments can be submitted in any of the following ways:

- Delivered by mail or delivery service, enclosed in an envelope labeled ''NEW ENGLAND WIND COP EIS'' and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or
- Through the *regulations.gov* web portal: Navigate to *http://www.regulations.gov* and search for ''Docket No. BOEM–2021–0047.'' Select this document from the search results and, once on the document page, click on the ''Comment'' button below the document title. Enter your information and comment, then scroll to bottom of the web page and click ''Submit Comment.''

**FOR FURTHER INFORMATION CONTACT:** Stephanie Fiori, BOEM Office of Environmental Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1832, or *stephanie.fiori@boem.gov.*

**SUPPLEMENTARY INFORMATION:** On June 30, 2021, BOEM published the ''Notice of Intent to Prepare an Environmental Impact Statement for the Vineyard Wind South Project Offshore Massachusetts'' in the **Federal Register** (86 FR 34782). The NOI announced that BOEM will prepare an EIS as part of its review of a COP submitted by Vineyard Wind and provided project information. This notice provides revised project information and announces an additional EIS public scoping comment process to account for the new information.

Vineyard Wind intends to install all Phase 2 offshore export cables within the offshore export cable corridor (OECC) through the Muskeget Channel to reach landfall sites in the Town of Barnstable, Massachusetts. However, Vineyard Wind has identified two variations of the Phase 2 OECC. These variations are necessary to provide Vineyard Wind with commercial flexibility should technical, logistical, grid interconnection, or other unforeseen issues arise during project review that would preclude or limit placement of Phase 2 export cables through the initial OECC in vicinity of the Muskeget Channel. The two variations of the Phase 2 OECC are as follows:

(1) The Western Muskeget Variant is an OECC variant that was included in the Vineyard Wind 1 project and includes the installation of one or two Phase 2 export cables in the western Muskeget Channel.

(2) The South Coast Variant diverges from the initial OECC at the northern boundary of Lease Area OCS–A 0501 and travels west-northwest to the state waters boundary near Buzzard's Bay, Massachusetts, through state waters, and onshore to a substation. The South Coast Variant includes an offshore routing envelope that indicates a region within Buzzards Bay where the Phase 2 offshore export cables may be installed before making landfall. It also includes an onshore routing envelope that indicates a region within southwest Massachusetts where the Phase 2 onshore cables may be installed. The location of a potential substation in southwest Massachusetts has not been identified.

### Public Participation

This notice commences an additional public scoping process to identify issues and potential alternatives related to the two newly proposed variations of the New England Wind Phase 2 OECC. Throughout the scoping process,

Federal agencies, Tribal, State, and local governments, and the general public have the opportunity to help BOEM identify significant resources and issues, impact-producing factors, reasonable alternatives (*e.g.,* size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as to provide additional information. A pre-recorded presentation, that highlights the new information, can be found at *https://www.boem.gov/new-england-wind.* For information on how to submit comments, see the **ADDRESSES** section above.

BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names, addresses, and other personally identifiable information included in the comment, available for public review online. Individuals can request that BOEM withhold their names, addresses, or other personally identifiable information included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. For BOEM to withhold from disclosure your personally identifiable information, you must identify any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your privacy. You also must briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Additionally, under section 304 of National Historic Preservation Act (NHPA), BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

**Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Two Variations of the Phase 2 OECC**

BOEM requests data, comments, views, information, analysis, alternatives, or suggestions from the public; affected Federal, State, Tribal, and local governments, agencies, and offices; the scientific community; industry; or any other interested party on the following topics with particular focus on the new project information related to the two variations of the Phase 2 OECC:

1. Potential effects that the two variations of the Phase 2 OECC could have on biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles.

2. Potential effects that the two variations of the Phase 2 OECC could have on physical resources including air quality, water quality, and wetlands and other waters of the United States.

3. Potential effects that the two variations of the Phase 2 OECC could have on socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other uses (marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.

4. Other possible reasonable alternatives to the Proposed Action related to the two variations of the Phase 2 OECC that BOEM should consider, including additional or alternative avoidance, minimization, and mitigation measures.

5. As part of its compliance with NHPA section 106 and its implementing regulations (36 CFR part 800), BOEM seeks comment and input from the public and consulting parties regarding the identification of historic properties within the Proposed Action's area of potential effects, the potential effects on those historic properties from the activities proposed in the COP, and any information that supports identification of historic properties under NHPA. BOEM also solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties related to the two variations of the Phase 2 OECC. BOEM's effects analysis for historic properties will be available for public and consulting party comment in the draft EIS.

6. Information on other current or planned activities in, or in the vicinity of, the two variations of the Phase 2 OECC and the possible impacts those activities and variations may have on each other.

7. Other information relevant to the two variations of the Phase 2 OECC and their impacts on the human environment.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important to the consideration of potential environmental impacts and alternatives relevant to the two variations of the Phase 2 OECC, as well as to the economic, employment, and other impacts affecting the quality of the human environment.

The draft EIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

*Authority:* 42 U.S.C. 4321 *et seq.* and 40 CFR 1501.9.

**William Yancey Brown,**

*Chief Environmental Officer, Bureau of Ocean Energy Management.*

[FR Doc. 2021–25320 Filed 11–19–21; 8:45 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731–TA–1575–1577 (Preliminary)]**

## Emulsion Styrene-Butadiene Rubber From Czechia, Italy, and Russia; Institution of Anti-Dumping Duty Investigations and Scheduling of Preliminary Phase Investigations

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping duty investigation Nos. 731–TA–1575–1577 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of emulsion styrene-butadiene rubber from Czechia, Italy, and Russia, provided for in statistical reporting numbers 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff

Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by December 30, 2021. The Commission's views must be transmitted to Commerce within five business days thereafter, or by January 7, 2022.

**DATES:** November 15, 2021.

**FOR FURTHER INFORMATION CONTACT:** Tyler Berard (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to a petition filed effective November 15, 2021, by Lion Elastomers LLC, Port Neches, Texas.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

*Participation in the investigations and public service list.*—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*— In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission is conducting the staff conference through video conferencing on December 6, 2021. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before December 2, 2021. Please provide an email address for each conference participant in the email. Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission's Daily Calendar. A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

*Written submissions.*—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 9, 2021, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on December 3, 2021. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Certification.*—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

*Authority:* These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: November 16, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–25322 Filed 11–19–21; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1270]**

## Certain Casual Footwear and Packaging Thereof; Commission Determination Not To Review Two Initial Determinations To Add Certain New Respondents, To Partially Terminate the Investigation With Respect to Certain Other Respondents, and To Extend the Target Date

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review two initial determinations (''ID'') issued by the presiding chief administrative law judge (''CALJ'') to: (i) Amend the complaint and notice of investigation to add certain new respondents and partially terminate the investigation with respect to certain other respondents (Order No. 30); and (ii) extend the target date for completion of this investigation to May 9, 2023 (Order No. 31).

**FOR FURTHER INFORMATION CONTACT:** Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on July 9, 2021, based on a complaint filed by Crocs, Inc. of Broomfield, Colorado (''Crocs''). 86 FR 36303–304 (July 9, 2021). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), in the importation into the United States, sale for importation, or sale in the United States after importation of certain casual footwear and packaging thereof by reason of infringement of one of more of U.S. Trademark Registration Nos. 3,836,415; 5,149,328; and 5,273,875. *Id.* The complaint further alleges that a domestic industry exists. *Id.*

The Commission's notice of investigation named twenty-three respondents: Hawkins Footwear, Sports, Military & Dixie Store of Brunswick, Georgia (''Hawkins''); Bijora, Inc. d/b/a Akira of Chicago, Illinois (''Akira''); Yoki Fashion International LLC of New York, New York (''Yoki''); Dr. Leonard's Healthcare Corp. d/b/a Carol Wright of Edison, New Jersey (''Dr. Leonard's''); Cape Robbin Inc. of Pomona, California (''Cape Robbin''); SG Footwear Meser Grp. Inc. a/k/a Goldberg & Co. of Hackensack, New Jersey (''SG Footwear''); Skechers USA, Inc. of Manhattan Beach, California (''Skechers''); Fujian Huayan Well Import and Export Trade Co., Ltd. of Fuzhou, Fujian Province, China (''Fujian''); Fullbeauty Brands Inc. of New York, New York (''Fullbeauty''); Legend Footwear, Inc. d/b/a Wild Diva of City of Industry, California (''Wild Diva''); Crocsky of Austin, Texas (''Crocsky''); Hobibear Shoes and Clothes Ltd. of Brighton, Colorado (''Hobibear''); Ink Tee of Los Angeles, California (''Ink Tee''); Hobby Lobby Stores, Inc. of Oklahoma City, Oklahoma (''Hobby Lobby''); La Modish Boutique of West Covina, California; Loeffler Randall Inc. of New York, New York (''Loeffler Randall''); Maxhouse Rise Ltd. of Hong Kong (''Maxhouse Rise''); PW Shoes, Inc. of Maspeth, New York; Shoe-Nami Inc. of Gretna, Louisiana; Star Bay Group Inc. of Hackensack, New Jersey; Quanzhou ZhengDe Network Corp. of Quanzhou, Fujian Province, China; 718 Closeouts of Brooklyn, New York; and Royal Deluxe Accessories, LLC of New Providence, New Jersey. The Office of Unfair Import Investigations (''OUII'') was also named as a party to this investigation.

On August 24, 2021, the Commission partially terminated the investigation with respect to Skechers based on a settlement agreement between Crocs and Skechers. Order No. 12 (Aug. 11, 2021), *unreviewed by* Comm'n Notice (Aug. 24, 2021). The Commission has also partially terminated the investigation with respect to certain respondents based on settlement agreements, consent orders, and consent order stipulations and issued the consent orders accordingly. *See* Order No. 16 (Aug. 26, 2021) (terminating SG Footwear), Order No. 17 (Aug. 16, 2021) (Cape Robbin), *unreviewed by* Comm'n Notice (Sept. 24, 2021); Order No. 20 (Sept. 1, 2021) (Dr. Leonard's), *unreviewed by* Comm'n Notice (Sept. 29, 2021); Order No. 22 (Sept. 9, 2021) (Fullbeauty), Order No. 23 (Wild Diva), *unreviewed by* Comm'n Notice (Oct. 7, 2021); Order No. 24 (Sept. 17, 2021) (Fujian), *unreviewed by* Comm'n Notice (Oct. 7, 2021); Order No. 25 (Sept. 22, 2021) (Yoki), *unreviewed by* Comm'n Notice (Oct. 7, 2021); Order No. 26 (Sept. 28, 2021) (Akira), *unreviewed by* Comm'n Notice (Oct. 27, 2021); Order No. 27 (Sept. 21, 2021) (Hawkins), *unreviewed by* Comm'n Notice (Oct. 29, 2021).

On September 13, 2021, Crocs moved to amend the complaint and notice of investigation, based on information obtained during discovery, to add eleven new respondents: Huizhou Xinshunzu Shoes Co., Ltd. (''Huizhou''); Orley Shoe Corp (''Orley''); Dongguan Eastar Footwear Enterprises Co., Ltd. (''Eastar Footwear''); KGS Sourcing Ltd. (''KGS''); Mould Industria de Matrizes Ltda. d/b/a Boaonda (''Boaonda''); Fujian Wanjiaxin Industrial Developing, Inc. a/k/a Fujian Wanjiaxin Light Industrial Developing, Inc. (''Wanjiaxin Industrial Developing''); Walmart Inc. (''Walmart''); Jinjiang Anao Footwear Co., Ltd (''Anao''); Burlington Shoes, Inc. (''Burlington''); Mamiye Brothers Inc. (''Mamiye''); and Jinjiang LinQi Shoes & Clothes Co., Ltd. (''LinQi''). Crocs also moved to partially terminate the investigation with respect to current respondents Crocsky, Ink Tee, and Hobibear Shoes, and to amend the complaint to identify these three entities as ''unknown manufacturers.''

On September 23, 2021, current respondents Hobby Lobby, Loeffler Randall, and Maxhouse Rise filed a response opposing the addition of any new respondents other than Walmart. On the same date, proposed respondent Eastar filed a response opposing the addition of itself as a respondent. Proposed respondent Walmart filed a response stating it did not oppose being named as a respondent, provided the proposed schedule is extended three months. OUII filed a response stating it did not oppose adding Huizhou, Orly, Eastar Footwear, KGS, Boaonda, Wanjiaxin Industrial Developing, Anao, and Walmart as proposed new respondents, provided steps are taken to minimize any potential prejudice. OUII opposed adding Burlington, Mamiye Brothers, and LinQi as respondents for lack of good cause. OUII did not oppose Crocs' motion to partially terminate the investigation with respect to Crocsky, Ink Tee, and Hobibear.

On October 21, 2021, the presiding CALJ issued the subject Order No. 30, granting Crocs' motion in part by adding Huizhou, Orly, Eastar Footwear, KGS, Boaonda, Anao, Wanjiaxin Industrial Developing, and Walmart as respondents, but denying Crocs' motion with respect to proposed respondents

Burlington, Mamiye Brothers, and LinQi for lack of good cause. Order No. 30 further grants Crocs' motion to partially terminate the investigation with respect to Crocsky, Ink Tee, and Hobibear, but denies its motion to amend the complaint to identify these three entities as ''unknown manufacturers.'' Order No. 30 further states that a four-month extension of the procedural schedule, including the hearing schedule and target date, is necessary to avoid prejudicing the newly added respondents.

On October 22, 2021, the presiding CALJ issued the subject Order No. 31, extending the target date by four months to May 9, 2023. Order No. 31 also reschedules the evidentiary hearing to September 12–16, 2022, and the due date for issuance of the final initial determination on violation to January 9, 2023.

No party filed a petition for review of the subject ID.

The Commission has determined not to review Order No. 30 or Order No. 31. Huizhou, Orly, Eastar Footwear, KGS, Boaonda, Anao, Wanjiaxin Industrial Developing, and Walmart are hereby added as respondents, and the investigation is partially terminated with respect to Crocsky, Ink Tee, and Hobibear. The target date is hereby extended to May 9, 2023.

The Commission vote for this determination took place on November 16, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: November 17, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–25377 Filed 11–19–21; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1268]**

## Certain Capacitive Touch Sensing Systems, Capacitive Touch Sensing Controllers, Microcontrollers With Capacitive Touch Sensing Functionality, and Components Thereof; Commission Determination Not To Review Two Initial Determinations Terminating an Investigation Based on Settlement Agreements; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review two initial determinations (''IDs'') (Order Nos. 13 and 14) of the presiding administrative law judge (''ALJ'') granting a joint motion to terminate the investigation based on two settlement agreements. The investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** On June 29, 2021, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'') based on a complaint filed by Neodron Ltd. of Dublin, Ireland (''Neodron''). *See* 86 FR 34277–78. The complaint alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain capacitive touch sensing systems, capacitive touch sensing controllers, and microcontrollers with capacitive touch sensing functionality, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,432,173; 8,749,251; 9,372,580; and 9,024,790. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names seven respondents, including Renesas Electronics Corporation of Tokyo, Japan and Renesas Electronics America Inc. of Milpitas, California (collectively, ''Renesas Respondents''); Renesas Technology America, Inc. of Milpitas, California; Cypress Semiconductor Corp. of San Jose, California (''Cypress''); ST Microelectronics N.V., STMicroelectronics, Inc., and STMicroelectronics (North America) Holding, Inc. all of Geneva, Switzerland (collectively, ''ST''). *See id.* The Office of Unfair Import Investigations (''OUII'') is also named as a party. *Id.*

Renesas Technology America, Inc. was previously terminated from the investigation based on partial withdrawal of the complaint. Order No. 9 (Aug. 12, 2021), *unreviewed by* Comm'n Notice (Sept. 9, 2021).

On October 15, 2021, Neodron and the Renesas Respondents, Cypress, and ST filed an unopposed joint motion to terminate the investigation based on two settlement agreements. On October 25, 2021, OUII filed a response in support of the joint motion.

On October 27, 2021, the presiding ALJ issued the two subject IDs granting the joint motion to terminate the investigation. *See* Order No. 13 (Oct. 27, 2021); Order No. 14 (Oct. 27, 2021). The ALJ issued separate IDs to address the parties' limited service requests. The subject IDs find that the joint motion complies with Commission Rule 210.21(b)(1) (19 CFR 210.21(b)) and that there are no extraordinary circumstances that would warrant denying the motion. The IDs also find that termination of the investigation based on settlement would not be contrary to the public interest.

No party petitioned for review of the subject IDs.

The Commission has determined not to review the subject IDs (Order Nos. 13 and 14). The investigation is terminated.

The Commission vote for this determination took place on November 16, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: November 16, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–25344 Filed 11–19–21; 8:45 am]

**BILLING CODE 7020–02–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: (21–079)]**

### Aerospace Safety Advisory Panel; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel (ASAP).

**DATES:** Monday, December 6, 2021, 9:30 a.m. to 10:00 a.m. Eastern Time.

**ADDRESSES:** This will be a virtual meeting via teleconference.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa M. Hackley, ASAP Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1947 or *lisa.m.hackley@nasa.gov.*

**SUPPLEMENTARY INFORMATION:** The Aerospace Safety Advisory Panel (ASAP) will hold a public meeting to deliberate new formal recommendations for NASA. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. This meeting is a virtual meeting, and only available telephonically. Any interested person may call the USA toll free conference call number 888–566–6133; passcode 8343253 and then the # sign. At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Lisa M. Hackley at *lisa.m.hackley@nasa.gov* or at (202) 358–1947 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel via electronic submission to Ms. Hackley at the email address previously noted. Verbal presentations and written statements should be limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

**Patricia Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2021–25321 Filed 11–19–21; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–2022–010]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of proposed extension request.

**SUMMARY:** We are proposing to request an extension from the Office of Management and Budget (OMB) of three currently approved information collections. People use the first information collection to request permission to film, photograph, or videotape at a NARA facility for news purposes. People use the second and third information collections to request permission to use NARA facilities for events in the Washington, DC, area, at a Federal records center, or at a Presidential library. Previously, we have handled each of these last two items as separate information collections, but we have recently revised the underlying regulation and the processes for requesting use of different kinds of NARA facilities, so we are proposing to combine these two into one ICR. All three collections are based on requirements in the same regulation. We invite you to comment on these proposed information collections pursuant to the Paperwork Reduction Act of 1995.

**DATES:** We must receive written comments on or before January 21, 2022.

**ADDRESSES:** Send comments to Paperwork Reduction Act Comments (MP), Room 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, or email them to *tamee.fechhelm@nara.gov.*

**FOR FURTHER INFORMATION CONTACT:** Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with requests for additional information or copies of the proposed information collection and supporting statement.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), we invite the public and other Federal agencies to comment on proposed information collections. If you have comments or suggestions, they should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether the collection affects small businesses.

We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record.

In this notice, we solicit comments concerning the following information collections, all of which are prescribed by regulation in 36 CFR 1280:

1. *Title:* Request to film, photograph, or videotape at a NARA facility for news purposes.

*OMB number:* 3095–0040.

*Agency form number:* None.

*Type of review:* Regular.

*Affected public:* Business or other for-profit, not-for-profit institutions.

*Estimated number of respondents:* 350.

*Estimated time per response:* 10 minutes.

*Frequency of response:* On occasion.

*Estimated total annual burden hours:* 58.

*Abstract:* The information collection is prescribed by 36 CFR 1280.48. The collection is prepared by organizations that wish to film, photograph, or videotape on NARA property for news purposes. We need the information to determine if the request complies with NARA regulations, to ensure protection of archival holdings, and to schedule the filming appointment.

2. *Title:* Request to use NARA facilities in the Washington, DC, area, public spaces at Federal records centers, or Presidential library and grounds, for events.

*OMB number:* 3095–0043.

*Agency form number:* NA Form 16011 (Application and permit for use of space in Presidential library and grounds).

*Type of review:* Regular.

*Affected public:* Not-for-profit institutions, individuals or households, business or other for-profit, private organizations, Federal Government.

*Estimated number of respondents:* 300 for facilities in the Washington, DC,

area and Federal records centers; 600 for Presidential library facilities and grounds.

*Estimated time per response:* 30 minutes for facilities in the Washington, DC, area and Federal records centers; 20 minutes for Presidential library facilities and grounds.

*Frequency of response:* On occasion.

*Estimated total annual burden hours:* 150 hours for facilities in the Washington, DC, area and Federal records centers; 200 hours for Presidential library facilities and grounds.

*Abstract:* The information collection is prescribed by 36 CFR 1280.64. Requesters submit the information when they wish to use NARA public areas in the Washington, DC, area or public spaces at Federal records centers for an event, or they submit the application to request the use of space in a Presidential library for a privately sponsored activity. We use the information to determine whether or not we can accommodate the request and date, whether the requested use meets the criteria in 36 CFR 1280, and to ensure that the proposed event complies with NARA regulations.

**Swarnali Haldar,**

*Executive for Information Services/CIO.*

[FR Doc. 2021–25362 Filed 11–19–21; 8:45 am]

**BILLING CODE 7515–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

### National Council on the Arts 205th Meeting

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public by videoconference or teleconference.

**DATES:** See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is Eastern time and the ending time is approximate.

**ADDRESSES:** The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. Please see *arts.gov* for the most up-to-date information.

**FOR FURTHER INFORMATION CONTACT:** Victoria Hutter, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

**SUPPLEMENTARY INFORMATION:** If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the September 10, 2019 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, to Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, at 202/682–5532 or *accessibility@arts.gov,* at least seven (7) days prior to the meeting.

*The upcoming meeting is:*

**National Council on the Arts 205th Meeting**

This meeting will be held by videoconference or teleconference.

*Date and time:* December 17, 2021; 2:00 p.m. to 2:30 p.m., ET.

There will be opening remarks and voting on recommendations for grant funding and rejection, followed by updates from the NEA Acting Chairman.

Register in advance for this webinar:

*Link: https://arts.zoomgov.com/webinar/register/WN_fCIqB6zxSIyy7YSM-rHVaw.*

After registering, you will receive a confirmation email containing information about joining the webinar.

Dated: November 17, 2021.

**Sherry P. Hale,**

*Staff Assistant, National Endowment for the Arts.*

[FR Doc. 2021–25373 Filed 11–19–21; 8:45 am]

**BILLING CODE 7537–01–P**

## NATIONAL SCIENCE FOUNDATION

### Privacy Act of 1974; System of Records

**AGENCY:** National Science Foundation.

**ACTION:** Notice of two new systems of records.

**SUMMARY:** The National Science Foundation (NSF) proposes to establish two new systems of records: NSF–78 ''NSF Staff and Visitor Medical Information'' and NSF–79 ''Health Program Records.'' NSF–78 ''NSF Staff and Visitor Medical Information'' will contain workplace safety and personnel information collected from NSF staff and visitors in response to a health-related declaration of a national emergency by the President, a public health emergency declared by the Secretary of the Department of Health and Human Services (HHS) or other designated federal official, or a designated state official. NSF–79 ''Health Program Records'' will contain medical information from NSF staff and visitors who use the services of the NSF Health Unit or other NSF health programs. Such services may include routine well visits, occupational health, travel clearances, immunizations, and health assessments.

**DATES:** Persons wishing to comment on the changes set out in this notice may do so on or before December 22, 2021.

*Effective Date:* This action will be effective without further notice on December 22, 2021 unless modified by subsequent notice to incorporate comments received from the public.

**ADDRESSES:** You may submit comments, identified by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Sarita Marshall, Branch Chief, at *samarsha@nsf.gov.*
- *Mail:* Sarita Marshall, Branch Chief, Division of Human Resource Management, National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22331.

*Instructions:* NSF will post all comments on the NSF's website (*https://www.nsf.gov/policies/privacy_act.jsp*). All comments submitted in response to this Notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** If you wish to submit general questions about the proposed new systems of records NSF–78 and NSF–79, please contact Sarita Marshall, Branch Chief, at 202–292–8767, or via email at *samarsha@nsf.gov.*

**SUPPLEMENTARY INFORMATION:** NSF is publishing NSF–78 ''NSF Staff and Visitor Medical Information'' to provide notice to individuals regarding the collection, maintenance, use and disclosure of health screening and contact tracing information collected from and about NSF staff and visitors, including those working at or visiting

NSF or an NSF-sponsored event outside of the headquarters location. For purposes of this SORN, ''NSF staff'' includes NSF federal employees, Intergovernmental Personnel Act (IPA) assignees, Visiting Scientists, Engineers, and Educators (VSEEs), NSF contractors, non-NSF government personnel or contractors, interns, fellows, and volunteers. NSF is collecting this information to protect the health of NSF staff and visitors, including those who seek to enter the NSF facility and/or were physically present in the facility and came in close proximity to or had physical contact with NSF staff and/or visitors who, at the time, were infected or had symptoms of infection with a communicable disease.

Health screening information will be used to reduce the risk that individuals with symptoms consistent with a communicable disease will enter the NSF facility or event and infect NSF staff and/or visitors with a communicable disease. Contact tracing information will be used to identify other NSF staff and/or visitors who were present in the NSF facility and in close proximity to or had physical contact with NSF staff and/or visitors who, at the time, were infected or had symptoms of infection with a communicable disease.

The proposed system of records will have an effect on individual privacy because personally identifiable information, including medical information, is required to conduct health screening, to identify persons who have or may have been exposed to or infected with a communicable disease (*e.g.,* to reduce risk by allowing them to work from home or use leave, as needed), and to identify other persons with whom an infected person might have had contact in the NSF facility or another facility hosting a NSF-sponsored event. In order to reduce the risk to individual privacy, NSF is minimizing dissemination of the information it maintains. For example, if NSF staff or visitors test positive for a communicable disease and reveal this information to NSF (or NSF acquires this information from another source), their identity will not be disclosed to other persons with whom they came in close physical contact unless otherwise authorized by law.

NSF is publishing NSF–79 ''Health Program Records'' to provide notice to individuals regarding the collection, maintenance, use and disclosure of medical and health related information collected from NSF staff and visitors who use the services of the NSF Health Unit and/or other NSF health-related programs and initiatives. For purposes of this SORN, ''NSF staff'' includes NSF federal employees, Intergovernmental Personnel Act (IPA) assignees, Visiting Scientists, Engineers, and Educators (VSEEs), NSF contractors, non-NSF government personnel or contractors, interns, fellows, and volunteers. The primary purposes of the collection and maintenance of these records is to allow NSF, including the NSF Health Unit, to provide medical evaluation and treatment of patients, comply with laws and policies regarding the reporting of communicable diseases, support personnel-related matters, and allow NSF staff to participate in NSF health programs. A new electronic record keeping system will support electronic registration of new patients as well as the capability for patients 24/7 access their medical records.

**SYSTEM NAME AND NUMBER:**

NSF Staff and Visitor Medical Information, NSF–78.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

**SYSTEM MANAGER(S):**

Branch Chief, Division of Human Resource Management, 2415 Eisenhower Ave., Alexandria, VA 22314

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Occupational Safety and Health Act (OSHA) of 1970, Public Law 91–596, Section 19(a) (*29 U.S.C. 668*(a)); Executive Order *12196* (Occupational Safety and Health Programs for Federal Employees), *5 U.S.C. 7902*(d); *29 U.S.C. 668, 29 CFR part 1904, 29 CFR 1910.1020,* and *29 CFR 1960.66;* Executive Orders 12196 (Occupational Safety and Health Programs for Federal Employees), *13991* (Protecting the Federal Workforce and Requiring Mask-Wearing), 14042 (Ensuring Adequate Safety COVID Protocols for Contractors), and 14043 (Requiring Coronavirus Disease 2019 Vaccination for Federal Employees); OMB Memorandum *M–21–15,* COVID–19 Safe Federal Workplace: Agency Model Safety Principles; OMB Memorandum *M–21–25,* Integrating Planning for a Safe Increased Return of Federal Employees and Contractors to Physical Workplaces with Post-Reentry Personnel Policies and Work Environments; updated *COVID–19 Workplace Safety: Agency Model Safety Principles,* issued by the Safer Federal Workforce Task Force; the National Science Foundation Act of 1950 (Pub. L. 81–507, sec. 11), including policies and agreements authorized and issued thereunder; and other authorities, including title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, Executive Order 13164 (Establishing Procedures to Facilitate the Provision of Reasonable Accommodation), and Equal Employment Opportunity Commission (EEOC) regulations (29 CFR parts 1601 *et seq.*), as applicable.

**PURPOSE(S) OF THE SYSTEM:**

NSF intends to collect the information in the system to assist NSF with maintaining a safe and healthy workplace, to (1) protect individuals in the NSF facility, including NSF-sponsored events outside of the NSF facility, from risks associated with a public health emergency; (2) to plan and respond to workplace and personnel flexibilities needed during a public health emergency; (3) to facilitate NSF's cooperation with public health authorities; (4) to perform contact tracing investigations of and notifications to NSF staff and visitors known or suspected of exposure to communicable diseases who came in close physical proximity to or had physical contact with other persons while working in or visiting the NSF facility; and (5) to comply with OSHA recordkeeping and reporting requirements.

Contact tracing is defined as the identification, monitoring, and support of an affected individual (an individual in the NSF facility with confirmed or probable exposure to a public health emergency contaminant), and identification and contact of a potentially affected individual (an individual who was in contact with an affected individual or exposed to a public health emergency contaminant while in the NSF facility or at an NSF-sponsored event outside of the NSF facility).

NSF may collect this information in response to a declaration of public health emergency by the Secretary of HHS. Under section 319 of the Public Health Service Act, the Secretary of HHS may declare that: (a) A disease or disorder presents a public health emergency; or (b) that a public health emergency, including significant outbreaks of infectious disease or bioterrorist attacks, otherwise exists. When the Secretary of HHS determines that a public health emergency exists, NSF must respond to protect the health of its workforce. NSF's response will depend on the nature of the particular public health emergency but may include collecting information from NSF staff and visitors.

NSF may also collect this information when it determines that the spread of a communicable disease presents a significant risk of substantial harm to the health of NSF staff or visitors. NSF will consider any public health emergency declared by state or local officials in making such a determination. In other circumstances, even in the absence of a health-related declaration of national emergency or declaration of public health emergency (HHS or state level), NSF may collect this information where it determines that the spread of a communicable disease presents a significant risk of substantial harm to the health of NSF staff or visitors.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system covers NSF federal employees, individuals working in the NSF facility or on official NSF business, including Intergovernmental Personnel Act (IPA) assignees, Visiting Scientists, Engineers, and Educators (VSEEs), NSF contractors, non-NSF government personnel or contractors, interns, fellows, and volunteers. Other categories of individuals covered by the system include visitors to the NSF facility and potentially affected individuals at NSF-sponsored events outside of the NSF facility or otherwise present during official NSF business. The system also covers individuals listed as emergency contacts for such individuals.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

NSF Staff and Visitor Medical Information may include identification and contact information such as name, address, work or personal phone number(s), work or personal email address(es), organization (directorate/division), date of birth, medical reports, assessments, vaccination status, testing status (where and when it occurred; status of results), test type, test results, disease type, health status, approximate date of exposure, last date physically present in the NSF facility or at an NSF-sponsored event, name of facility visited (if outside of the NSF facility), areas of the NSF or other facility (if an NSF event outside of the NSF facility) traversed, areas and objects touched, workplace contacts, names of persons who had physical contact with or was in prolonged close physical proximity to infected/potentially infected persons, extended proximity event time and date, number of events, number of individuals in an event, number of individuals at location, dates and locations of domestic and international travel, and related information and documents collected for the purpose of screening and contact tracing, including attestations regarding vaccination, testing and treatment status. In addition, relevant personal information may be collected from individuals to assist NSF in making a determination regarding an employee's request for an exception to a vaccination requirement and/or other reasonable accommodations.

**RECORD SOURCE CATEGORIES:**

Records are obtained through paper forms, interviews, or electronically from NSF staff, visitors, or individuals who attend an NSF-sponsored event. With regard to contact tracing, information may be collected from individuals infected or potentially infected while physically present in the NSF facility or at an NSF-sponsored event, other individuals with whom an infected or potentially infected individual had close contact, other federal or state agencies, physicians (as allowed by law or with consent from the individual), visitors or their employers, and NSF staff and visitors who maintain (manually or electronically) a log or report of their close physical contacts (and the duration of that contact) while in the NSF facility to individuals designated by NSF.

Information is also collected from security systems monitoring access to Agency facilities (such as video surveillance and key card logs), human resources systems, emergency notification systems, and federal, state, and local agencies assisting with the response to a public health emergency.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The following NSF standard routine uses apply:

1. Members of Congress. Information from a system may be disclosed to congressional offices in response to inquiries from the congressional offices made at the request of the individual to whom the record pertains.

2. Freedom of Information Act/Privacy Act Compliance. Information from a system may be disclosed to the Department of Justice or the Office of Management and Budget in order to obtain advice regarding NSF's obligations under the Freedom of Information Act and the Privacy Act.

3. Counsel. Information from a system may be disclosed to NSF's legal representatives, including the Department of Justice and other outside counsel, where the agency is a party in litigation or has an interest in litigation and the information is relevant and necessary to such litigation, including when any of the following is a party to the litigation or has an interest in such litigation: (a) NSF, or any component thereof; (b) any NSF employee in his or her official capacity; (c) any NSF employee in his or her individual capacity, where the Department of Justice has agreed to, or is considering a request to, represent the employee; or (d) the United States, where NSF determines that litigation is likely to affect the agency or any of its components.

4. National Archives, General Services Administration. Information from a system may be disclosed to representatives of the General Services Administration and the National Archives and Records Administration (NARA) during the course of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

5. Response to an Actual or Suspected Compromise or Breach of Personally Identifiable Information. NSF may disclose information from the system to appropriate agencies, entities, and persons when: (a) NSF suspects or has confirmed that there has been a breach of the system of records; (2) NSF has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals; NSF (including its information systems, programs, and operations); the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NSF efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm. Furthermore, NSF may disclose information from the system to another Federal agency or Federal entity, when NSF determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (1) Responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

6. Courts. Information from a system may be disclosed to the Department of Justice or other agencies in the event of a pending court or formal administrative proceeding, when the information is relevant and necessary to that proceeding, for the purpose of representing the government, or in the course of presenting evidence, or the information may be produced to parties

or counsel involved in the proceeding in the course of pre-trial discovery.

7. Contractors. Information from a system may be disclosed to contractors, agents, experts, consultants, or others performing work on a contract, service, cooperative agreement, job, or other activity for NSF and who have a need to access the information in the performance of their duties or activities for NSF.

8. Audit. Information from a system may be disclosed to government agencies and other entities authorized to perform audits, including financial and other audits, of the agency and its activities.

9. Law Enforcement. Information from a system may be disclosed, where the information indicates a violation or potential violation of civil or criminal law, including any rule, regulation or order issued pursuant thereto, to appropriate Federal, State, or local agencies responsible for investigating, prosecuting, enforcing, or implementing such statute, rule, regulation, or order.

10. Disclosure When Requesting Information. Information from a system may be disclosed to Federal, State, or local agencies which maintain civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

11. To the news media and the public when: (1) A matter has become public knowledge, (2) the NSF Office of the Director determines that disclosure is necessary to preserve confidence in the integrity of NSF or is necessary to demonstrate the accountability of NSF's officers, employees, or individuals covered by this system, or (3) the Office of the Director determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that the Office of the Director determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

In addition to the standard routine uses, information may be disclosed as follows:

12. Federal agencies such as the HHS, state and local health departments, and other public health or cooperating medical authorities in connection with program activities and related collaborative efforts to deal more effectively with exposures to communicable diseases, and to satisfy mandatory reporting requirements when applicable.

13. Contractors to assist the agency in health screening and contact tracing activities and assessing/revising/improving NSF processes, procedures, performance, and implementation of health screening and contact tracing activities.

14. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, to the extent permitted by law for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system are stored electronically in secure facilities or on paper. Electronic records are maintained in a secure password-protected environment. Permission level assignments will allow internal agency users access only to those functions for which they are authorized. All paper records are maintained in secure, access-controlled areas or buildings. Paper records are stored in a locked drawer, behind a locked door or at a secure offsite location.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by an individual's name or other unique personal identifier such as an email address.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

All data maintained by this system of records are retained and destroyed in accordance with the NARA Records Schedule 2.7; item 020 (occupational injury and illness program records), and item 040 (workplace environmental monitoring and exposure records). Contact tracing records will be maintained in the agency in accordance with proposed retention schedules.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable law, rules, and policies, including all applicable NSF automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know (including medical personnel under a contract agreement) the information for the performance of their official duties. These records are maintained in a secure password-protected environment. All users are required to take annual NSF IT Security and Privacy Awareness Training, which covers the procedures for handling Sensitive but Unclassified Information, including personally identifiable information (PII).

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access information about themselves contained in this system are required to follow the procedures found at 45 CFR part 613.

**CONTESTING RECORD PROCEDURES:**

Individuals seeking to contest information about themselves contained in this system are required to follow the procedures found at 45 CFR part 613.

**NOTIFICATION PROCEDURES:**

Individuals requesting access to or contesting records contained in this system will be notified according to the procures found at 45 CFR part 613.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

None.

**SYSTEM NAME AND NUMBER:**

Health Program Records, NSF–79.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314.

**SYSTEM MANAGER(S):**

Branch Chief, Pay and Benefits Services, Division of Human Resource Management 2415 Eisenhower Ave., Suite W 15000, Alexandria, VA 22314.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 7901 and the National Science Foundation Act of 1950 (Pub. L. 81–507). To the extent that this system includes records relating to requests for reasonable accommodations, see also title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, Executive Order 13164 (Establishing Procedures to Facilitate the Provision of Reasonable Accommodation), and Equal Employment Opportunity Commission (EEOC) regulations (29 CFR parts 1601 *et seq.*), as applicable.

**PURPOSE(S) OF THE SYSTEM:**

Information in this system of records is collected and maintained to document an individual's utilization of health services provided by the NSF Health Unit and other NSF health programs. Data is necessary to ensure proper evaluation, diagnosis, treatment, and referral to maintain continuity of care; a medical history of care received by the individual; planning for further care of the individual; a means of communication among health care members who contribute to the individual's care; and a legal document of health care rendered. Information is also collected to help NSF coordinate with other federal, state and local agencies when responding to health emergencies, comply with laws regarding the reporting of communicable disease, and address personnel matters such as review of medical documentation submitted in support of requests for reasonable accommodations on the basis of a disability or travel clearances.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system covers any individual who receives care at the NSF Health Unit or by Health Unit staff, or other NSF health programs. Covered individuals may include NSF federal employees, individuals working in the NSF facility or on official NSF business, including Intergovernmental Personnel Act (IPA) assignees, Visiting Scientists, Engineers, and Educators (VSEEs), NSF contractors, non-NSF government personnel or contractors, interns, fellows, volunteers, and visitors to NSF headquarters.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Health screening data, patient medical records, and other information provided to the Health Unit during the course of patient intake and care, and/or information provided to other NSF health programs that NSF may participate in. These records may include personal data such as name; date of birth; address; telephone number; email address; emergency contact information; information about and obtained from and individual's physician; medical history; biographical data including about family members; examination, diagnostic, assessment, and treatment data; laboratory findings; nutrition and dietetic files; nursing notes; immunization records; vaccination records; and prescription information. In addition, this system may contain relevant personal information that has been collected from individuals to assist NSF in making a determination regarding the individual's request for a medical exception to a vaccination requirement and/or other reasonable accommodations requested on the basis of a disability. See also SORN NSF–78.

**RECORD SOURCE CATEGORIES:**

Information in this system of records comes from the individual to whom it applies; laboratory reports and test results; health unit physicians, nurses, and other medical technicians who have examined, tested, or treated the individual; the individual's personal physician; other federal employee health units; and other federal, state and local agencies.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The following NSF standard routine uses apply:

1. Members of Congress. Information from a system may be disclosed to congressional offices in response to inquiries from the congressional offices made at the request of the individual to whom the record pertains.

2. Freedom of Information Act/ Privacy Act Compliance. Information from a system may be disclosed to the Department of Justice or the Office of Management and Budget in order to obtain advice regarding NSF's obligations under the Freedom of Information Act and the Privacy Act.

3. Counsel. Information from a system may be disclosed to NSF's legal representatives, including the Department of Justice and other outside counsel, where the agency is a party in litigation or has an interest in litigation and the information is relevant and necessary to such litigation, including when any of the following is a party to the litigation or has an interest in such litigation: (a) NSF, or any component thereof; (b) any NSF employee in his or her official capacity; (c) any NSF employee in his or her individual capacity, where the Department of Justice has agreed to, or is considering a request to, represent the employee; or (d) the United States, where NSF determines that litigation is likely to affect the agency or any of its components.

4. National Archives, General Services Administration. Information from a system may be disclosed to representatives of the General Services Administration and the National Archives and Records Administration (NARA) during the course of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

5. Response to an Actual or Suspected Compromise or Breach of Personally Identifiable Information. NSF may disclose information from the system to appropriate agencies, entities, and persons when: (a) NSF suspects or has confirmed that there has been a breach of the system of records; (2) NSF has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NSF (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NSF efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm. Furthermore, NSF may disclose information from the system to another Federal agency or Federal entity, when NSF determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (1) Responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

6. Courts. Information from a system may be disclosed to the Department of Justice or other agencies in the event of a pending court or formal administrative proceeding, when the information is relevant and necessary to that proceeding, for the purpose of representing the government, or in the course of presenting evidence, or the information may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

7. Contractors. Information from a system may be disclosed to contractors, agents, experts, consultants, or others performing work on a contract, service, cooperative agreement, job, or other activity for NSF and who have a need to access the information in the performance of their duties or activities for NSF.

8. Audit. Information from a system may be disclosed to government agencies and other entities authorized to perform audits, including financial and other audits, of the agency and its activities.

9. Law Enforcement. Information from a system may be disclosed, where the information indicates a violation or potential violation of civil or criminal law, including any rule, regulation, or order issued pursuant thereto, to appropriate Federal, State, or local

agencies responsible for investigating, prosecuting, enforcing, or implementing such statute, rule, regulation, or order.

10. Disclosure When Requesting Information. Information from a system may be disclosed to Federal, State, or local agencies which maintain civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

11. To the news media and the public when: (1) A matter has become public knowledge, (2) the NSF Office of the Director determines that disclosure is necessary to preserve confidence in the integrity of NSF or is necessary to demonstrate the accountability of NSF's officers, employees, or individuals covered by this system, or (3) the Office of the Director determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that the Office of the Director determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

In addition to the standard routine uses, information may be disclosed as follows:

12. Medical personnel under a contract agreement with NSF.

13. To disclose information to a federal, state, or local agency to the extent necessary to comply with laws governing reporting of communicable disease.

14. Appropriate federal, state, or local agencies responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records in this system are stored electronically in secure facilities or on paper. Electronic records are maintained in a secure password-protected environment. Permission level assignments will allow internal agency users access only to those functions for which they are authorized. All paper records are maintained in secure, access-controlled areas or buildings. Paper records are stored in a locked drawer, behind a locked door or at a secure offsite location.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by an individual's name or other unique personal identifier such as an email address or phone number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

All data maintained by this system of records are retained and destroyed in accordance with the NARA Records Schedule 2.7; item 010 (clinic scheduling records); items 060, 061, and 062 (occupational individual medical case files); and item 070 (non-occupational individual medical case files).

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system are safeguarded in accordance with applicable law, rules, and policies, including all applicable NSF automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing electronic records in this system is limited to those individuals who have a need to know (including medical personnel under a contract agreement) the information for the performance of their official duties. These records are maintained in a secure password-protected environment. All users are required to take annual NSF IT Security and Privacy Awareness Training, which covers the procedures for handling Sensitive but Unclassified Information, including personally identifiable information (PII).

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access information about themselves contained in this system are required to follow the procedures found at 45 CFR part 613.

**CONTESTING RECORD PROCEDURES:**

Individuals seeking to contest information about themselves contained in this system are required to follow the procedures found at 45 CFR part 613.

**NOTIFICATION PROCEDURES:**

Individuals requesting access to or contesting records contained in this system will be notified according to the procures found at 45 CFR part 613.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

None.

Dated: November 16, 2021.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2021–25339 Filed 11–19–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. STN 50–456, STN 50–457, 72–73, STN 50–454, STN 50–455, 72–68, 50–317, 50–318, 72–8, 50–461, 72–1046, 50–10, 50–237, 50–249, 72–37, 50–333, 72–12, 50–373, 50–374, 72–70, 50–352, 50–353, 72–65, 50–220, 50–410, 72–1036, 50–171, 50–277, 50–278, 72–29, 50–254, 50–265, 72–53, 50–244, 72–67, 50–272, 50–311, 72–48, 50–289, 72–77, 50–295, 50–304, and 72–1037; NRC–2021–0099]**

### In the Matter of Exelon Generation Company, LLC; Exelon Corporation; Exelon FitzPatrick, LLC; Nine Mile Point Nuclear Station, LLC; R.E. Ginna Nuclear Power Plant, LLC; Calvert Cliffs Nuclear Power Plant, LLC; Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Clinton Power Station, Unit No. 1; Dresden Nuclear Power Station, Units 1, 2, and 3; James A. FitzPatrick Nuclear Power Plant; LaSalle County Station, Units 1 and 2; Limerick Generating Station, Units 1 and 2; Nine Mile Point Nuclear Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2, and 3; Quad Cities Nuclear Power Station, Units 1 and 2; R.E. Ginna Nuclear Power Plant; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Three Mile Island Nuclear Station, Unit 1; Zion Nuclear Power Station, Units 1 and 2; and the Associated Independent Spent Fuel Storage Installations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Indirect transfer of licenses; order.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an order approving the application filed by Exelon Generation Company, LLC (EGC), on behalf of itself and Exelon Corporation; Exelon FitzPatrick, LLC; Nine Mile Point Nuclear Station, LLC; R. E. Ginna Nuclear Power Plant, LLC; and Calvert Cliffs Nuclear Power Plant, LLC (collectively, the Applicants), on February 25, 2021, as supplemented. Specifically, the order approves the indirect transfer of the facility operating licenses, materials license, and general licenses held by the Applicants, conforming amendments to the licenses,

and other actions related to the reorganization of EGC.

**DATES:** The order was issued on November 16, 2021, and is effective for 1 year.

**ADDRESSES:** Please refer to Docket ID NRC–2021–0099 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0099. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The order, the NRC staff safety evaluation, and the draft conforming amendments are available in ADAMS under Package Accession No. ML21277A245.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Blake A. Purnell, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1380, email: *Blake.Purnell@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The text of the order is attached.

Dated: November 17, 2021.

For the Nuclear Regulatory Commission.

**Blake A. Purnell,**

*Project Manager, Plant Licensing Branch III, Division of Operator Reactor Licensing, Office of Nuclear Reactor Regulation.*

## Attachment—Order Approving Indirect Transfer of Licenses and Draft Conforming License Amendments

**United States of America**

**Nuclear Regulatory Commission**

In the Matter of: EXELON GENERATION COMPANY, LLC; EXELON CORPORATION; EXELON FITZPATRICK, LLC; NINE MILE POINT NUCLEAR STATION, LLC; R. E. GINNA NUCLEAR POWER PLANT, LLC; AND CALVERT CLIFFS NUCLEAR POWER PLANT, LLC. (Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Clinton Power Station, Unit No. 1; Dresden Nuclear Power Station, Units 1, 2, and 3; James A. FitzPatrick Nuclear Power Plant; LaSalle County Station, Units 1 and 2; Limerick Generating Station, Units 1 and 2; Nine Mile Point Nuclear Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2, and 3; Quad Cities Nuclear Power Station, Units 1 and 2; R. E. Ginna Nuclear Power Plant; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Three Mile Island Nuclear Station, Unit 1; Zion Nuclear Power Station, Units 1 and 2; and the Associated Independent Spent Fuel Storage Installations)

Docket Nos. STN 50–456, STN 50–457, 72–73, STN 50–454, STN 50–455, 72–68, 50–317, 50–318, 72–8, 50–461, 72–1046, 50–10, 50–237, 50–249, 72–37, 50–333, 72–12, 50–373, 50–374, 72–70, 50–352, 50–353, 72–65, 50–220, 50–410, 72–1036, 50–171, 50–277, 50–278, 72–29, 50–254, 50–265, 72–53, 50–244, 72–67, 50–272, 50–311, 72–48, 50–289, 72–77, 50–295, 50–304, and 72–1037

License Nos. NPF–72, NPF–77, NPF–37, NPF–66, DPR–53, DPR–69, NPF–62, DPR–2, DPR–19, DPR–25, DPR–59, NPF–11, NPF–18, NPF–39, NPF–85, DPR–63, NPF–69, DRP–12, DPR–44, DPR–56, DPR–29, DPR–30, DPR–18, DPR–70, DPR–75, DPR–50, DPR–39, DPR–48, and SNM–2505

**Order Approving Indirect Transfer of Licenses and Draft Conforming License Amendments**

**I**

This order pertains to the following licenses (collectively, the Licenses):

- Renewed Facility Operating License Nos. NPF–72 and NPF–77 for Braidwood Station (Braidwood), Units 1 and 2, respectively, and the general license for the associated independent spent fuel storage installation (ISFSI). Braidwood is located in Will County, Illinois, and it is owned and operated by Exelon Generation Company, LLC (EGC). EGC holds the licenses.
- Renewed Facility Operating License Nos. NPF–37 and NPF–66 for Byron Station (Byron), Unit Nos. 1 and 2, respectively, and the general license for the associated ISFSI. Byron is located in Ogle County, Illinois, and it is owned and operated by EGC. EGC holds the licenses.
- Renewed Facility Operating License Nos. DPR–53 and DPR–69 for Calvert Cliffs Nuclear Power Plant (Calvert Cliffs), Units 1 and 2, respectively, and Renewed Materials License No. SNM–2505 for the associated ISFSI. Calvert Cliffs is located in Calvert County, Maryland, and it is owned by Calvert Cliffs Nuclear Power Plant, LLC (Calvert LLC) and operated by EGC. Calvert LLC and EGC hold the licenses.
- Facility Operating License No. NPF–62 for Clinton Power Station (Clinton), Unit No. 1, and the general license for the associated ISFSI. Clinton is located in DeWitt County, Illinois, and it is owned and operated by EGC. EGC holds the licenses.
- Facility Operating License No. DPR–2 and Renewed Facility Operating License Nos. DPR–19 and DPR–25 for Dresden Nuclear Power Station (Dresden), Units 1, 2, and 3, respectively, and the general license for the associated ISFSI. Dresden is located in Grundy County, Illinois, and it is owned by EGC. Dresden, Unit 1, has permanently ceased operation and is no longer authorized to operate, and EGC is only authorized to perform certain activities (*e.g.,* decommissioning) at the facility. EGC operates Dresden, Units 2 and 3. EGC holds the licenses.
- Renewed Facility Operating License No. DPR–59 for James A. FitzPatrick Nuclear Power Plant (FitzPatrick), and the general license for the associated ISFSI. FitzPatrick is located in Oswego County, New York, and it is owned by Exelon FitzPatrick, LLC and operated by EGC. Exelon FitzPatrick, LLC and EGC hold the licenses.
- Renewed Facility Operating License Nos. NPF–11 and NPF–18 for LaSalle County Station (LaSalle), Units 1 and 2, respectively, and the general license for the associated ISFSI. LaSalle is located in LaSalle County, Illinois, and it is owned and operated by EGC. EGC holds the licenses.
- Renewed Facility Operating License Nos. NPF–39 and NPF–85 for Limerick Generating Station (Limerick), Units 1 and 2, respectively, and the general license for the associated ISFSI. Limerick is located in Montgomery County, Pennsylvania, and it is owned and operated by EGC. EGC holds the licenses.
- Renewed Facility Operating License Nos. DPR–63 and NPF–69 for Nine Mile Point Nuclear Station (NMP), Units 1 and 2, respectively, and the general license for the associated ISFSI. NMP is located in Oswego County, New York, and it is operated by EGC. Nine Mile Point Nuclear Station, LLC (NMP LLC) owns NMP, Unit 1, and holds the license with EGC. NMP LLC and Long Island Lighting Company own NMP, Unit 2, and hold the license with EGC.
- Facility Operating License No. DPR–12 and Subsequent Renewed Facility Operating License Nos. DPR–44 and DPR–56 for Peach Bottom Atomic Power Station (Peach Bottom), Units 1, 2, and 3, respectively, and the general license for the associated ISFSI. Peach Bottom is located in York and Lancaster Counties, Pennsylvania. Peach Bottom, Unit 1, has permanently ceased operation and is no longer authorized to

operate, and EGC is only authorized to perform certain activities (*e.g.,* decommissioning) at the facility. EGC owns and holds the license for Peach Bottom, Unit 1. Peach Bottom, Units 2 and 3, are owned by PSEG Nuclear, LLC (PSEG) and EGC and operated by EGC. PSEG and EGC hold the licenses for Peach Bottom, Units 2 and 3.

- Renewed Facility Operating License Nos. DPR–29 and DPR–30 for Quad Cities Nuclear Power Station (Quad Cities), Units 1 and 2, respectively, and the associated general license for the ISFSI. Quad Cities is located in Rock Island County, Illinois, and it is owned by EGC and MidAmerican Energy Company and operated by EGC. EGC and MidAmerican Energy Company hold the licenses.
- Renewed Facility Operating License No. DPR–18 for R. E. Ginna Nuclear Power Plant (Ginna), and the general license for the associated ISFSI. Ginna is located in Wayne County, New York, and it is owned by R. E. Ginna Nuclear Power Plant, LLC (Ginna LLC) and operated by EGC. Ginna LLC and EGC hold the license.
- Renewed Facility Operating License Nos. DPR–70 and DPR–75 for Salem Nuclear Generating Station (Salem), Unit Nos. 1 and 2, respectively, and the general license for the associated ISFSI. Salem is located in Salem County, New Jersey, and it is owned by PSEG and EGC and operated by PSEG. PSEG and EGC hold the licenses.
- Renewed Facility License No. DPR–50 for Three Mile Island Nuclear Station (TMI), Unit 1, and the general license for the associated ISFSI. TMI is located in Dauphin County, Pennsylvania. TMI, Unit 1, has permanently ceased operation and is no longer authorized to operate, and EGC is only authorized to perform certain activities (*e.g.,* decommissioning) at the facility. EGC owns and holds the license for TMI, Unit 1.
- Facility Operating License Nos. DPR–39 and DPR–48 for Zion Nuclear Power Station (Zion), Units 1 and 2, respectively, and the general license for the associated ISFSI. Zion is located in Lake County, Illinois, and it is owned by EGC. Radiological decommissioning of the Zion units has been completed such that the only licensed activities that EGC may perform at the site are associated with the ISFSI operation and maintenance. EGC holds the licenses.

**II**

By application dated February 25, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21057A273), as supplemented by letters dated March 25, June 11, September 16, and September 29, 2021 (ADAMS Accession Nos. ML21084A165, ML21162A292, ML21259A040, and ML21272A276 (package), respectively), EGC, on behalf of itself and Exelon Corporation; Exelon FitzPatrick, LLC; NMP LLC; Ginna LLC; and Calvert LLC (collectively, the Applicants) requested, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (the Act), and Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 50.80, ''Transfer of licenses,'' and 72.50, ''Transfer of license,'' that the U.S. Nuclear Regulatory Commission (NRC, the Commission) consent to the indirect transfer of control of the Licenses.

Specifically, the Applicants requested that the NRC consent to the indirect transfer of control of the Licenses to support a proposed transaction (referred to as the spin transaction) in which Exelon Corporation will transfer its 100 percent ownership of EGC to a newly-created subsidiary that will then be spun off to Exelon Corporation shareholders, becoming EGC's new ultimate parent company. Once the spin transaction is completed, the new ultimate parent company, EGC, and its subsidiaries will no longer be affiliated with Exelon Corporation. EGC will remain the same Pennsylvania limited liability company as before the spin transaction and will continue to own and/or operate the aforementioned reactor units and associated ISFSIs (collectively, the facilities), as applicable, and hold the Licenses, but it will be reorganized and renamed. The name for the new ultimate parent company and the new name for EGC have not yet been determined; therefore, they are identified herein as HoldCo and SpinCo, respectively.

The Applicants further requested that the NRC consent to the indirect transfer of control of the licenses for the FitzPatrick, NMP, and Ginna facilities to support the reorganization of EGC. As part of the reorganization, Exelon FitzPatrick, LLC; NMP LLC; Ginna LLC; and, as applicable, their parent entities, will become subsidiaries of a newly-created, wholly-owned subsidiary of SpinCo. In addition, Exelon FitzPatrick, LLC will be renamed. The name for this new subsidiary of SpinCo and the new name for Exelon FitzPatrick, LLC have not yet been determined; therefore, they are identified herein as New York HoldCo and New FitzPatrick, LLC, respectively.

The Applicants also requested NRC approval to replace existing nuclear operating services agreements and financial support agreements associated with the ownership and operation of the Calvert Cliffs, NMP, Ginna, and FitzPatrick facilities. The Applicants requested NRC approval to transfer the qualified and non-qualified trusts for FitzPatrick from Exelon Generation Consolidation, LLC (a subsidiary of EGC) to New FitzPatrick, LLC.

Pursuant to 10 CFR 50.90, ''Application for amendment of license, construction permit, or early site permit,'' and 72.56, ''Application for amendment of license,'' the Applicants requested conforming amendments to the Licenses to reflect the proposed transfer. In addition, the Applicants requested that the conforming amendments to the licenses for Calvert Cliffs, Units 1 and 2; NMP, Units 1 and 2; and Ginna delete conditions referencing the Constellation Energy Nuclear Group, LLC (a subsidiary of EGC) Board and its operating agreement to reflect the internal reorganization of EGC described in the application.

On May 3, 2021, the NRC published a notice of consideration of approval of the proposed license transfer and conforming license amendments in the **Federal Register** (86 FR 23437). This notice provided an opportunity to comment, request a hearing, and petition for leave to intervene on the application. On June 2, 2021 (86 FR 29599), the comment period was extended to June 23, 2021.

Separate requests for a hearing on the application were filed by Eric Epstein, on behalf of himself and Three Mile Island Alert, Inc., on June 14, 2021 (ADAMS Accession No. ML21165A196); EDF Inc. on June 14, 2021 (ADAMS Accession No. ML21165A295); the Environmental Law and Policy Center on June 23, 2021 (ADAMS Accession No. ML21174A320); and the State of Illinois on July 12, 2021 (ADAMS Accession No. ML21193A326). EDF Inc. withdrew its request for a hearing on August 9, 2021 (ADAMS Accession No. ML21221A153). The remaining hearing requests are pending before the Commission. The NRC also received written comments regarding the application. The comments within the scope of the NRC staff's review of the application are addressed in the NRC staff's safety evaluation of the application.

Pursuant to 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Pursuant to 10 CFR 72.50, no license or any part included in a license issued under 10 CFR part 72 for an ISFSI shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of the information in the application, as supplemented, and other information before the Commission, the NRC staff has determined that SpinCo; Calvert LLC, New FitzPatrick, LLC; NMP LLC; and Ginna LLC are qualified to hold the Licenses to the extent proposed in the application, as supplemented, to permit the spin transaction and reorganization of EGC, and that transfer of the Licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the conditions set forth below.

Upon review of the application, as supplemented, for conforming license amendments to reflect the transfer, the NRC staff has determined that:

(1) The application, as supplemented, complies with the standards and requirements of the Act and the Commission's rules and regulations set forth in 10 CFR Chapter I.

(2) The facilities will operate in conformity with the application, as supplemented, the provisions of the Act, and the rules and regulations of the Commission.

(3) There is reasonable assurance that the activities authorized by the amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations.

(4) The issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

(5) The issuance of the amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable

requirements have been satisfied. The findings set forth above are supported by an NRC staff safety evaluation dated the same date as this order, which is available at ADAMS Accession No. ML21277A248 (non-proprietary).

**III**

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, 10 CFR 72.50, 10 CFR 50.90, and 10 CFR 72.56, IT IS HEREBY ORDERED that the license transfer application, as described herein, is approved, subject to the following conditions:

1. SpinCo and New FitzPatrick, LLC shall provide satisfactory documentary evidence to the Director of the Office of Nuclear Reactor Regulation that, as of the date of the indirect license transfer, the licensees reflected in the amended licenses have obtained the appropriate amount of insurance required of a licensee under 10 CFR part 140 and 10 CFR 50.54(w).

2. If EGC does not hold Facility Operating License Nos. DPR–39 and DPR–48 for Zion, Units 1 and 2, respectively, and the general license for the Zion ISFSI at the time of the closing of the spin transaction, then these licenses shall not be transferred to SpinCo as part the spin transaction.

3. At least 5 business days before the closing of the spin transaction, the Applicants shall submit, signed under oath or affirmation, the following information to the NRC in accordance with 10 CFR parts 50 and 72: (1) The final legal entity names of HoldCo, SpinCo, New York HoldCo, and New FitzPatrick, LLC; (2) the state of incorporation and address for HoldCo; (3) the address for New York HoldCo; and (4) the names, addresses, and citizenship of the directors and principal officers of HoldCo and New York HoldCo.

4. The NRC staff's approval of the license transfer is subject to the Commission's authority to rescind, modify, or condition the approved transfer based on the outcome of any post-effectiveness hearing on the license transfer application.

*It Is Further Ordered* that after receipt of all required regulatory approvals of the proposed indirect license transfer, the Applicants shall inform the Directors of the Office of Nuclear Reactor Regulation and the Office of Nuclear Material Safety and Safeguards in writing of such receipt no later than 5 business days prior to the date of the closing of the transfer. Should the proposed license transfer not be completed within 1 year of the date of this order, this order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order. The conditions of this order may be amended upon application by the Applicants and approval by the NRC.

*It Is Further Ordered* that consistent with 10 CFR 2.1315(b), the license amendments that make changes, as indicated in Enclosure 2 to the letter forwarding this order, to reflect the subject license transfer, are approved. The amendments shall be issued and made effective at the time the proposed transfer actions are completed.

This order is effective upon issuance.

For further details with respect to this order, see the application dated February 25, 2021, as supplemented by letters dated March 25, June 11, September 16, and September 29, 2021, and the associated NRC staff safety evaluation dated the same date as this order. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by email to *pdr.resource@nrc.gov*.

Dated: November 16, 2021.

For the Nuclear Regulatory Commission.

/RA/

Bo M. Pham, Director,

*Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

/RA/

Jane E. Marshall, Director,

*Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

/RA/

Shana R. Helton, Director,

*Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2021–25406 Filed 11–19–21; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. MT2022–1; Order No. 6038]**

## Market Test of Experimental Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is recognizing a recently filed Postal Service proposal to conduct a market test of an experimental product called Extended Mail Forwarding. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 7, 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:**

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### I. Introduction

In accordance with 39 U.S.C. 3641 and 39 CFR part 3045, the Postal Service filed notice of its intent to conduct a market test of an experimental product called USPS Connect Local Mail.[1] The Postal Service states that currently, when business mailers who send documents locally with regular frequency wish to send documents for same-day or next-day arrival, they are directed to use a variety of services that were designed for end-to-end mailing over long distances, and are priced accordingly. Notice at 1. The Postal Service asserts that USPS Connect Local Mail is designed as an economical alternative for these mailers. *Id.* at 1–2. The Postal Service ''intends for the market test to run for two full years beginning on January 9, 2022,'' although it explains that it ''may decide to seek permanent product status earlier, or alternatively [it] may seek authority for an additional year of testing if more time is needed to determine the feasibility or desirability of the product.'' *Id.* at 3.

### II. Background

On November 10, 2021, the Postal Service filed the Notice proposing the USPS Connect Local Mail market test. The Postal Service asserts that ''local document delivery could benefit from increased competition, and that economical local document delivery is a market that is currently underserved by USPS.'' Notice at 1. As such, according to the Postal Service, USPS Connect Local Mail (as well as its planned package-focused counterpart, USPS Connect Local)[2] is designed to offer improved access to the Postal Service network for local mailers and will leverage the Postal Service's current ''last-mile infrastructure to create

[1] United States Postal Service Notice of Market Test of Experimental Product—USPS Connect Local Mail, November 10, 2021 (Notice).

[2] In a separate proceeding to adjust Competitive product rates, Docket No. CP2022–22, the Postal Service has proposed to add ''USPS Connect Local'' as a new price category under the existing Parcel Select product. Docket No. CP2022–22, USPS Notice of Changes in Rates of General Applicability for Competitive Products, November 10, 2021, at 2–3. Any comments on the Postal Service's plans to add this new Competitive product price category should be filed in Docket No. CP2022–22.

economical new solutions for customers.'' Notice at 2.

The Postal Service states that USPS Connect Local Mail will be available at Destination Delivery Units or by carrier pick-up in line-of travel. *Id.* at 2. It also states that it will offer same-day or next-day delivery, six days per week, with customers receiving same-day or next-day delivery based on whether they've entered their mail within the Critical Entry Time. *Id.* The Postal Service adds that it will offer tracking services for USPS Connect Local Mail. *Id.* According to the Postal Service, ''[d]ocuments mailed using this service must be paper-based and may contain personal information.'' *Id.* at 3.

The Postal Service plans to offer USPS Connect Local Mail at $2.95 for a Letter or Flat size mailpiece with a weight up to 13 ounces. *Id.* at 2. It will allow customers to pay for this service using Click-N-Ship or through a Postal Service application programming interface. *Id.* at 3. According to the Postal Service, USPS Connect Local Mail will cover its attributable costs, which it estimates to be $2.03 per piece based on the volume variable cost of Priority Mail flats, modified to reflect differences in mail processing, transportation, and packaging costs. *Id.* at 2–3.

The Postal Service states that USPS Connect Local Mail will be tested nationwide with a phased rollout. *Id.* at 3.

## III. Compliance With Legal Requirements

The Postal Service asserts that the proposed market test meets the requirements of 39 U.S.C. 3641 and 39 CFR part 3045. First, the Postal Service explains that, ''from the viewpoint of mail users, USPS Connect Local Mail is significantly different from all products offered by the Postal Service within the last two years'' as required by 39 U.S.C. 3641(b)(1). Notice at 3. The Postal Service states that it ''does not currently offer an expedited First-Class Mail product for local mailers to quickly and cost effectively mail local personalized correspondence,'' nor does First-Class Mail include tracking or free packaging. *Id.* at 3–4. According to the Postal Service, although Priority Mail Express and Priority Mail may be used to deliver local mail, they are ''intended for nationwide, end-to-end shipping and their pricing reflects these higher costs.'' *Id.* at 4. Thus, it asserts, USPS Connect Local Mail is significantly different from the other services it offers. *Id.*

Second, the Postal Service asserts that USPS Connect Local Mail ''will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer,'' as set out in 39 U.S.C. 3641(b)(2), because it was ''designed to increase small business access to the USPS network and . . . leverages the Postal Service's existing delivery network to address a need for locally-focused small businesses,'' thus ''offer[ing] a low-priced alternative in a market that is arguably underserved by USPS.'' *Id.*

Third, the Postal Service states that USPS Connect Local Mail is properly categorized as market dominant as required by 39 U.S.C. 3641(b)(3) given that it ''is not structuring USPS Connect Local Mail to meet any of the exceptions or suspensions to the Private Express Statutes.'' *Id.*

## IV. Data Collection

To better understand the results of the market test, the Postal Service asserts that it will collect the following data on a quarterly basis by district for USPS Connect Local Mail: Volume of mailpieces, number of customers, and revenue.[3] The Postal Service also states that it will collect data on the attributable costs of USPS Connect Local Mail, including administrative costs of the test. Notice at 5.

## V. Notice of Commission Action

The Commission establishes Docket No. MT2022–1 to consider matters raised by the Notice. The Commission invites comments on whether the Postal Service's filing is consistent with the requirements of 39 U.S.C. 3641 and 39 CFR part 3045. Comments are due no later than December 7, 2021. The filing can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Mallory L. Smith to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

## VI. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. MT2022–1 to consider the matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, Mallory L. Smith is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than December 7, 2021.

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

By the Commission.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021–25324 Filed 11–19–21; 8:45 am]

**BILLING CODE 7710–FW–P**

[3] *Id.* at 5. The Postal Service states that, although ''[v]olumes and revenues for USPS Connect Local Mail are difficult to predict . . . it is possible that the Postal Service may eventually need to seek a waiver of the annual statutory limitation of $11,860,140.'' *Id.* It explains that, should the revenue approach this amount, the Postal Service ''will furnish the appropriate notice to the Commission and submit an application for exemption from the cap under 39 U.S.C. 3641(e)(2) in a timely manner.'' *Id.*

## POSTAL REGULATORY COMMISSION

**[Docket No. MC2022–20; Order No. 6040]**

## Mail Classification Schedule

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is recognizing a recent Postal Service filing requesting the conversion of the experimental product offering Plus One into a permanent product offering on the Mail Classification Schedule. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 7, 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:**

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## I. Introduction

On November 10, 2021, the Postal Service filed a request with the Commission pursuant to 39 U.S.C. 3642 and 39 CFR 3045.18 to convert the experimental product offering Plus One into a permanent product offering on the Mail Classification Schedule.[1] In support of its Request, the Postal Service filed the following documents:

- Attachment A to the Request—Proposed Changes to Mail Classification Schedule;

[1] United States Postal Service Request to Convert Plus One to a Permanent Offering, November 10, 2021 (Request).

• Attachment B to the Request—Redacted Market Test Quarterly Data Collection Reports; [2] and

• Attachment C to the Request—Resolution of the Governors of the United States Postal Service to Request Conversion of Plus One Market Test Into a Permanent Offering.

*See* Request at 3–5.

The Plus One market test was initially authorized by the Commission on September 20, 2019, and was extended on June 4, 2021.[3] It is currently set to expire on September 30, 2022. Order No. 5909 at 12. Plus One is an advertising card mailed as an add-on mailpiece with a USPS Marketing Mail Letters marriage mail envelope containing multiple advertising mailpieces. Order No. 5239 at 1. The Postal Service asserts that the Plus One market test has proven successful, and the Postal Service now wishes to insert the Plus One product offering into the Mail Classification Schedule under section 1205.5 (Market Dominant Products: USPS Marketing Mail (Commercial and Nonprofit): High Density and Saturation Letters: Optional Features). Request at 1. The Postal Service maintains that the Plus One product meets all the conditions in 39 U.S.C. 3642 and 39 CFR 3045.18 for adding a non-experimental product based on an experimental product to the product list. Request at 2–5. The Postal Service also, as required by 39 CFR 3045.18(e), filed a separate notice of the instant request in Docket No. MT2019–1.[4] The planned rate to add each Plus One card to the host marriage mailing (a Saturation Letter) is $0.10. Request at 3.

## II. Commission Action

The Commission establishes Docket No. MC2022–20 to consider the Postal Service's Request. Interested persons may submit comments on whether the Request is consistent with the policies of 39 U.S.C. 3642 and 39 CFR 3045.18. Comments are due by December 7, 2021.

The Request and related filings are available on the Commission's website (*http://www.prc.gov*). The Commission encourages interested persons to review the Request for further details.

[2] The Postal Service refiled under seal in Docket No. MC2022–20 all of the non-public data collection reports pertaining to the market test, which were previously filed under seal on a quarterly basis in Docket No. MT2019–1, and requested continued non-public treatment of this material. *See* Request at 4.

[3] Docket No. MT2019–1, Order Authorizing Plus One Market Test, September 20, 2019 (Order No. 5239); Order Authorizing Extension of Plus One Market Test, June 4, 2021 (Order No. 5909).

[4] Docket No. MT2019–1, United States Postal Service Notice of Request to Convert Plus One to Permanent Offering, November 10, 2021.

The Commission appoints Gregory S. Stanton to serve as Public Representative in this proceeding.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. MC2022–20 for consideration of the United States Postal Service Request to Convert Plus One to a Permanent Offering, filed November 10, 2021.

2. Pursuant to 39 U.S.C. 505, Gregory S. Stanton is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due by December 7, 2021.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021–25347 Filed 11–19–21; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2022–22; Order No. 6039]**

## Competitive Price Adjustment

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is recognizing a recently filed Postal Service document with the Commission concerning changes in rates of general applicability for competitive products. The changes are scheduled to take effect January 9, 2022. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 7, 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:**

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## I. Introduction and Overview

On November 10, 2021, the Postal Service filed notice with the Commission concerning changes in rates of general applicability for Competitive products.[1] The Postal Service represents that, as required by 39 CFR 3035.102(b), the Notice includes an explanation and justification for the changes, the effective date, and a schedule of the changed rates. *See* Notice at 1–2. The changes are scheduled to take effect on January 9, 2022. *Id.* at 1.

Attached to the Notice is Governors' Decision No. 21–6, which states the new prices are in accordance with 39 U.S.C. 3632 and 3633 and 39 CFR 3035.102.[2] The Governors' Decision provides an analysis of the Competitive products' price changes intended to demonstrate that the changes comply with 39 U.S.C. 3633 and 39 CFR part 3035. Governors' Decision No. 21–6 at 1. The attachment to the Governors' Decision sets forth the price changes and includes draft Mail Classification Schedule language for Competitive products of general applicability.

The Postal Service also includes a proposed classification change within the price change docket—the introduction of ''USPS Connect Local'' as a new price category under the Parcel Select product. Notice at 1–2.

The Notice also includes an application for non-public treatment of the attributable costs, contribution, and cost coverage data in the unredacted version of the annex to the Governors' Decision, as well as the supporting materials for the data. *Id.* at 2.

*Planned price adjustments.* The Governors' Decision includes an overview of the Postal Service's planned price changes, which is summarized in the table below.

TABLE I–1—PROPOSED PRICE CHANGES

| Product name | Average price increase (percent) |
|---|---|
| **Domestic Competitive Products** | |
| Priority Mail Express | 3.1 |

[1] USPS Notice of Changes in Rates of General Applicability for Competitive Products, November 10, 2021 (Notice). Pursuant to 39 U.S.C. 3632(b)(2), the Postal Service is obligated to publish the Governors' Decision and record of proceedings in the **Federal Register** at least 30 days before the effective date of the new rates.

[2] Notice, Decision of the Governors of the United States Postal Service on Changes in Rates of General Applicability for Competitive Products (Governors' Decision No. 21–6), at 1 (Governors' Decision No. 21–6).

TABLE I–1—PROPOSED PRICE CHANGES—Continued

| Product name | Average price increase (percent) |
|---|---|
| Retail | 2.9 |
| Commercial Base | 4.3 |
| Commercial Plus | 4.3 |
| Priority Mail | 3.1 |
| Retail | 4.5 |
| Commercial Base | 2.7 |
| Commercial Plus | 1.2 |
| Parcel Select [3] | 5.5 |
| Destination-Entered non-Lightweight | −11.1 |
| Destination Delivery Unit | 6.1 |
| Destination Sectional Center Facility | −10.4 |
| Destination Network Distribution Center | −23.1 |
| Lightweight | 7.4 |
| Ground | −12.1 |
| Parcel Return Service | 4.9 |
| Return Sectional Center Facility | 4.9 |
| Return Delivery Unit | 4.9 |
| First-Class Package Service | 7.6 |
| Retail | 8.4 |
| Commercial | 7.4 |
| Retail Ground | −7.4 |
| **Domestic Extra Services** | |
| Premium Forwarding Service | 5.1 |
| Adult Signature Service: | |
| Basic | 23.3 |
| Person-Specific | 22.4 |
| Competitive Post Office Box | 18.2 |
| Package Intercept Service | 4.6 |
| Premium Data Retention and Retrieval Service | −51.5 |
| **International Competitive Products** | |
| Global Express Guaranteed | 2.3 |
| Priority Mail Express International | 3.2 |
| Priority Mail International | 3.7 |
| International Priority Airmail | 4.9 |
| International Priority Airmail M-Bags | 0.0 |
| International Surface Air Lift | 8.2 |
| International Surface Air Lift M-Bags | 2.9 |
| Airmail M-Bags | 5.0 |
| First-Class Package International Service | 4.2 |
| **International Ancillary Services and Special Services** | |
| International Ancillary Services | 5.0 |
| International Postal Money Orders and Money Transfer Service | 15.8 |

Source: *See* Governors' Decision No. 21–6 at 2–6.

## II. Initial Administrative Actions

The Commission establishes Docket No. CP2022–22 to consider the Postal Service's Notice. Interested persons may express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E. Comments are due no later than December 7, 2021. For specific details of the planned price changes, interested persons are encouraged to review the Notice, which is available on the Commission's website at *www.prc.gov.*

Pursuant to 39 U.S.C. 505, Christopher C. Mohr is appointed to serve as Public Representative to represent the interests of the general public in this docket.

## III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. CP2022–22 to provide interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E.

2. Comments are due no later than December 7, 2021.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Christopher C. Mohr to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021–25342 Filed 11–19–21; 8:45 am]

**BILLING CODE 7710–FW–P**

[3] In a separate proceeding to test a new Market Dominant product, the Postal Service has proposed to offer ''USPS Connect Local Mail'' for letter or flat-shaped mailpieces weighing up to 13 ounces. *See* Docket No. MT2022–1, United States Postal Service Notice of Market Test of Experimental Product—USPS Connect Local Mail, November 10, 2021. Any comments on the Postal Service's plan to test the letter and flat-shaped Market Dominant product ''USPS Connect Local Mail'' should be filed in Docket No. MT2022–1.

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93588; File No. SR–NYSE–2021–66]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the Procedures for the Allocation of Cabinets and Power to Its Colocated Users

November 16, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 3, 2021, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update the procedures for the allocation of cabinets and power to its colocated Users. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to update the procedures for the allocation of cabinets and power to its colocated [4] Users.[5]

In December 2020, the Exchange established procedures for the allocation of cabinets in colocation should it

[4] The Exchange initially filed rule changes relating to its colocation services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56).

[5] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the New York Stock Exchange Price List (''Price List''), a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2021–42; SR–NYSEArca–2021–96; SR–NYSECHX–2021–16; SR–NYSENAT–2021–22.

become needed.[6] In April 2021, the Exchange added procedures for the allocation of power in colocation (together with the cabinet procedures, the ''Existing Procedures'').[7]

Proposed Changes to the Waitlist Procedures

Pursuant to the Existing Procedures, a Combined Waitlist is currently in effect. To be placed on the Combined Waitlist, a User must submit an order that complies with the Combined Limits—that is, the order must be for no more than 32 kW, and no more than four dedicated cabinets with standard power allocations of 4 kW or 8 kW as part of the 32 kW total.[8]

The Existing Procedures provide that ''[a] User may only have one order for new cabinets and/or additional power on the Combined Waitlist at a time . . . .''[9] The Exchange has become aware that some Users are attempting to circumvent this provision by submitting additional orders in the names of entities affiliated with the User.[10]

The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Such actions by Users could result in a distribution of cabinets and power that is contrary to the intent of the Cabinet Limits and Combined Limits, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more cabinets and power than the Cabinet Limits and Combined Limits allow, to the detriment of other Users seeking to purchase cabinets or power.

To address this issue, the Exchange proposes to amend the Existing Procedures to add to General Note 8(b) that ''[w]hile a User is on the Combined Waitlist, no Affiliate of such User may also be on the Combined Waitlist.'' The Exchange similarly proposes to amend General Note 8(a), regarding the Cabinet Waitlist, to provide that ''[w]hile a User is on the Cabinet Waitlist, no Affiliate of such User may also be on the Cabinet Waitlist.'' The term ''Affiliate'' is already defined in the Co-Location Fees section of the Price List as follows: ''An 'Affiliate' of a User is any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.'' This definition of ''Affiliate'' was introduced in connection with the Exchange's filing regarding partial cabinet solutions, and the Exchange believes that the definition is appropriate to also use in the present context.[11]

Proposed Changes to the Purchasing Limit Procedures

The Exchange also proposes to amend the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 to prevent Users from circumventing the Cabinet Limits and Combined Limits in a similar fashion when they are in effect but a waitlist is not. The Existing Procedures provide that when the Cabinet Limit or Combined Limits are in effect, a User will have to wait 30 days from the date of the User's signed order before purchasing cabinets or power again. The Exchange proposes to amend such provisions to specify that this 30-day limitation applies not just to Users that have already purchased cabinets or power subject to the applicable Purchasing Limit, but also to any Affiliate of such User, so long as the applicable Purchasing Limit remains in effect.

General

The proposed rule change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Price List is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and with Section 6(b)(5),[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would prevent a User from obtaining a greater share of cabinets and power than the Existing Procedures intended, and thereby facilitate a more equitable distribution of cabinets and power.

As noted above, the Exchange has become aware that some Users are attempting to circumvent the Combined Waitlist by submitting additional orders in the names of entities affiliated with the User, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Combined Waitlist at the same time. The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Unless prohibited, such actions by Users could result in an inequitable distribution of cabinets and power, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more than their intended share of cabinets and power, to the detriment of other Users seeking to purchase cabinets and power. The proposed rule change to General Note 8 would address this concern.

The Exchange believes that the proposed amendments to the Existing

[6] *See* Securities Exchange Act Release No. 90732 (December 18, 2020), 85 FR 84443 (December 28, 2020) (SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca–2020–82, SR–NYSECHX–2020–26, and SR–NYSENAT–2020–28).

[7] *See* Securities Exchange Act Release No. 91515 (April 8, 2021), 86 FR 19674 (April 14, 2021) (SR–NYSE–2021–12, SR–NYSEAMER–2021–08, SRNYSENAT–2021–03, SR–NYSEArca–2021–11, and SR–NYSECHX–2021–02). The Existing Procedures are set forth in General Notes 7 and 8 under ''Co-location Fees'' in the Price List.

[8] *See* Price List, Co-Location Fees, General Notes 7 and 8.

[9] *See* Price List, Co-Location Fees, General Note 8(b).

[10] For example, a User that wants 64 kW could submit an order for 32 kW to the Combined Waitlist, and then have an affiliated entity submit a second order to the Combined Waitlist for an additional 32 kW. Once the affiliated entity obtained its 32 kW, it could assign the power to the User. As a result, the User would obtain two times more power than the Combined Limit would allow. The Exchange has been informed that at least one User has contemplated utilizing affiliates for this purpose.

[11] To the extent that the Combined Waitlist currently includes orders submitted by two or more Users that are Affiliates, the Exchange intends to remove all but the first of such Affiliates' orders from the Combined Waitlist upon this proposed rule change becoming operative.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 would similarly prevent Users from circumventing the Cabinet Limits and Combined Limits when there is no waitlist in effect. The Exchange believes that having both Users and their Affiliates wait 30 days from the date of the signed order to purchase new cabinets or power would foreclose Users' ability to use their Affiliates to obtain a greater portion of the cabinets and power available. In this way, the Exchange believes that that the proposed amendments to General Note 7 would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposed rule change would not unfairly discriminate between or among market participants, as it would apply to all types and sizes of market participants equally.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[14] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to prevent Users from obtaining an unfair competitive advantage by submitting multiple orders in the names of affiliated entities, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Cabinet Waitlist or the Combined Waitlist at the same time and to obtain a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. The proposed rule change would prevent a User from obtaining this unfair competitive advantage, thereby facilitating a more equitable distribution of cabinets and power.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

[14] 15 U.S.C. 78f(b)(8).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that implementing the proposed rule change as soon as possible would allow the Exchange to prevent Users from unfairly obtaining more cabinets or power than the Existing Procedures were intended to provide. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–66 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2021–66. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should

[21] 15 U.S.C. 78s(b)(2)(B).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–66 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25354 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93589; File No. SR–NYSEAMER–2021–42]**

## Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the Procedures for the Allocation of Cabinets and Power to Its Colocated Users

November 16, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 3, 2021, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update the procedures for the allocation of cabinets and power to its colocated Users. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to establish[4] procedures for the allocation of power to its co-located[5] Users.[6]

In December 2020, the Exchange established procedures for the allocation of cabinets in colocation should it become needed.[7] In April 2021, the Exchange added procedures for the allocation of power in colocation (together with the cabinet procedures, the ''Existing Procedures'').[8]

Proposed Changes to the Waitlist Procedures

Pursuant to the Existing Procedures, a Combined Waitlist is currently in effect. To be placed on the Combined Waitlist, a User must submit an order that complies with the Combined Limits—that is, the order must be for no more than 32 kW, and no more than four dedicated cabinets with standard power allocations of 4 kW or 8 kW as part of the 32 kW total.[9]

The Existing Procedures provide that ''[a] User may only have one order for new cabinets and/or additional power on the Combined Waitlist at a time . . . .''[10] The Exchange has become aware that some Users are attempting to circumvent this provision by submitting additional orders in the names of entities affiliated with the User.[11]

The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Such actions by Users could result in a distribution of cabinets and power that is contrary to the intent of the Cabinet Limits and Combined Limits, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more cabinets and power than the Cabinet Limits and Combined Limits allow, to the detriment of other Users seeking to purchase cabinets or power.

To address this issue, the Exchange proposes to amend the Existing Procedures to add to General Note 8(b) that ''[w]hile a User is on the Combined Waitlist, no Affiliate of such User may also be on the Combined Waitlist.'' The Exchange similarly proposes to amend General Note 8(a), regarding the Cabinet Waitlist, to provide that ''[w]hile a User is on the Cabinet Waitlist, no Affiliate of such User may also be on the Cabinet Waitlist.'' The term ''Affiliate'' is already defined in the Co-Location Fees section of the Price List and Fee Schedule as follows: ''An 'Affiliate' of a User is any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.'' This definition of ''Affiliate'' was introduced in connection with the

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission notes that the Exchange proposes to update previously established procedures for allocation of cabinets and power to its colocated Users.

[5] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80).

[6] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the NYSE American Equities Price List and Fee Schedule and the NYSE American Options Fee Schedule (together, the ''Price List and Fee Schedule''), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–66; SR–NYSEArca–2021–96; SR–NYSECHX–2021–16; SR–NYSENAT–2021–22.

[7] *See* Securities Exchange Act Release No. 90732 (December 18, 2020), 85 FR 84443 (December 28, 2020) (SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca–2020–82, SR–NYSECHX–2020–26, and SR–NYSENAT–2020–28).

[8] *See* Securities Exchange Act Release No. 91515 (April 8, 2021), 86 FR 19674 (April 14, 2021) (SR–NYSE–2021–12, SR–NYSEAMER–2021–08, SRNYSENAT–2021–03, SR–NYSEArca–2021–11, and SR–NYSECHX–2021–02). The Existing Procedures are set forth in General Notes 7 and 8 under ''Co-location Fees'' in the Price List and Fee Schedule.

[9] *See* Price List and Fee Schedule, Co-Location Fees, General Notes 7 and 8.

[10] *See* Price List and Fee Schedule, Co-Location Fees, General Note 8(b).

[11] For example, a User that wants 64 kW could submit an order for 32 kW to the Combined Waitlist, and then have an affiliated entity submit a second order to the Combined Waitlist for an additional 32 kW. Once the affiliated entity obtained its 32 kW, it could assign the power to the User. As a result, the User would obtain two times more power than the Combined Limit would allow. The Exchange has been informed that at least one User has contemplated utilizing affiliates for this purpose.

Exchange's filing regarding partial cabinet solutions, and the Exchange believes that the definition is appropriate to also use in the present context.[12]

Proposed Changes to the Purchasing Limit Procedures

The Exchange also proposes to amend the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 to prevent Users from circumventing the Cabinet Limits and Combined Limits in a similar fashion when they are in effect but a waitlist is not. The Existing Procedures provide that when the Cabinet Limit or Combined Limits are in effect, a User will have to wait 30 days from the date of the User's signed order before purchasing cabinets or power again. The Exchange proposes to amend such provisions to specify that this 30-day limitation applies not just to Users that have already purchased cabinets or power subject to the applicable Purchasing Limit, but also to any Affiliate of such User, so long as the applicable Purchasing Limit remains in effect.

General

The proposed rule change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Price List and Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and with Section 6(b)(5),[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would prevent a User from obtaining a greater share of cabinets and power than the Existing Procedures intended, and thereby facilitate a more equitable distribution of cabinets and power.

As noted above, the Exchange has become aware that some Users are attempting to circumvent the Combined Waitlist by submitting additional orders in the names of entities affiliated with the User, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Combined Waitlist at the same time. The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Unless prohibited, such actions by Users could result in an inequitable distribution of cabinets and power, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more than their intended share of cabinets and power, to the detriment of other Users seeking to purchase cabinets and power. The proposed rule change to General Note 8 would address this concern.

The Exchange believes that the proposed amendments to the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 would similarly prevent Users from circumventing the Cabinet Limits and Combined Limits when there is no waitlist in effect. The Exchange believes that having both Users and their Affiliates wait 30 days from the date of the signed order to purchase new cabinets or power would foreclose Users' ability to use their Affiliates to obtain a greater portion of the cabinets and power available. In this way, the Exchange believes that that the proposed amendments to General Note 7 would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposed rule change would not unfairly discriminate between or among market participants, as it would apply to all types and sizes of market participants equally.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to prevent Users from obtaining an unfair competitive advantage by submitting multiple orders in the names of affiliated entities, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Cabinet Waitlist or the Combined Waitlist at the same time and to obtain a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. The proposed rule change would prevent a User from obtaining this unfair competitive advantage, thereby facilitating a more equitable distribution of cabinets and power.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[12] To the extent that the Combined Waitlist currently includes orders submitted by two or more Users that are Affiliates, the Exchange intends to remove all but the first of such Affiliates' orders from the Combined Waitlist upon this proposed rule change becoming operative.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

of the Act and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that implementing the proposed rule change as soon as possible would allow the Exchange to prevent Users from unfairly obtaining more cabinets or power than the Existing Procedures were intended to provide. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[22] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2021–42 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2021–42. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2021–42 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011–01–P**

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93583; File No. SR–GEMX–2021–10]**

## Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2021, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend GEMX's Pricing Schedule at Options 7, Section 5, Legal and Regulatory, to reflect adjustments to FINRA Registration Fees. Additionally, this rule change amends the Continuing Education Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on January 2, 2022.[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/gemx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

This proposal amends GEMX's Pricing Schedule at Options 7, Section 5, Legal and Regulatory, to reflect adjustments to FINRA Registration Fees.[4] Additionally, this rule change amends the Continuing Education Fees. The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of GEMX members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

Today, GEMX Options 7, Section 5B, provides a list of FINRA Web CRD Fees, Fingerprint Processing Fees, and Continuing Education Fees. The Exchange proposes to amend the introductory paragraph to add a sentence to make clear that FINRA collects the fees listed within Options 7, Section 5B on behalf of the Exchange. The fees listed within Options 7, Section 5B reflect fees set by FINRA.

Specifically, with respect to the General Registration Fees, the Exchange proposes to increase the $100 fee to $125 for each initial Form U4 filed for the registration of a representative or principal. This amendment is made in accordance with a recent FINRA rule change to adjust to its fees.[5]

The Exchange also proposes to amend the Continuing Education Fees to update those fees to reflect current fees assessed by FINRA. The Exchange proposes to provide an introductory paragraph which states, ''The Continuing Education Fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange General 4, Section 1240. This fee is paid directly to FINRA.'' Additionally, the Exchange proposes to replace the current rule text[6] with the following rule text, ''$100.00 ($55.00 if the Continuing Education is Web-based) for each individual who is required to complete the S101 or S201.'' This proposed rule text reflects a rule change previously made by FINRA[7] which discontinued the S501 Regulatory Element. Since the time the S501 fee was discontinued, FINRA has been collecting the appropriate registration fees for the S101 and S201 registrations. This amendment will make clear the current Continuing Education Fees that FINRA assesses today.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 in accordance with an adjustment to FINRA's fees.[10] The Exchange's rule text will reflect the current registration rate that will be assessed by FINRA as of January 2, 2022. Additionally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees will bring greater transparency to its fees. Also, amending the Continuing Education Fees to properly reflect the current fee of $100.00 for each individual who is required to complete the S101 or S201 and $55.00 if the Continuing Education is Web-based will bring greater transparency to the Continuing Education fees currently assessed by FINRA. Finally, referencing the rule which governs the Regulatory Element of the Continuing Education Requirements and, noting that the fee is paid directly to FINRA, will provide more information to Members regarding the fees for Continuing Education. The proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons. These costs are borne by FINRA when a Non-FINRA member uses Web CRD.

The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 is equitable and not unfairly discriminatory as the amendment will reflect the current fee that will be assessed by FINRA to all Members who require Form U4 filings as of January 2, 2022. Additionally, reflecting the current Continuing Education Fees for the S101 or S201 and removing outdated language is equitable and not unfairly discriminatory as FINRA currently assesses these rates to all Members that are required to have those registrations. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Regulatory Element of the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal is also equitable and not unfairly discriminatory because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this proposal creates an unnecessary or inappropriate inter-market burden on competition as FINRA's fees apply to all market participants. Additionally, the Exchange does not believe that this proposal creates an unnecessary or inappropriate intra-market burden on competition as the increased fee for each initial Form U4 filed for the registration of a representative or principal will be assessed by FINRA to all Members who require Form U4 filings as of January 2, 2022. Also, reflecting the current Continuing Education Fees for the S101 or S201 and removing outdated language does not impose an undue burden on competition as FINRA currently assesses these rates to all Members that

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *Id.* FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[6] The current rule text provides, ''$60–S501. Assessed to each individual who is solely registered as a Proprietary Trader required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Nasdaq GEMX Rule 1240.''

[7] *See* Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (SR–FINRA–2015–015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See* note 3 above.

are required to have those registrations. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Regulatory Element of the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2021–10 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–GEMX–2021–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2021–10, and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25350 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93591; File No. SR–NYSECHX–2021–16]**

## Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the Procedures for the Allocation of Cabinets and Power to Its Colocated Users

November 16, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 3, 2021, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to update the procedures for the allocation of cabinets and power to its colocated Users. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to establish[4] procedures for the allocation of power to its co-located[5] Users.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b-4.

[4] The Commission notes that the Exchange proposes to update previously established procedures for allocation of cabinets and power to its colocated Users.

[5] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2019. *See* Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 (November 1, 2019) (SR–NYSECHX–2019–27).

[6] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id.,* at note 6. As specified in the Fee Schedule of NYSE Chicago, Inc. (''Fee Schedule''), a User that incurs co-location fees for a particular co-location service pursuant thereto

In December 2020, the Exchange established procedures for the allocation of cabinets in colocation should it become needed.[7] In April 2021, the Exchange added procedures for the allocation of power in colocation (together with the cabinet procedures, the ''Existing Procedures'').[8]

Proposed Changes to the Waitlist Procedures

Pursuant to the Existing Procedures, a Combined Waitlist is currently in effect. To be placed on the Combined Waitlist, a User must submit an order that complies with the Combined Limits—that is, the order must be for no more than 32 kW, and no more than four dedicated cabinets with standard power allocations of 4 kW or 8 kW as part of the 32 kW total.[9]

The Existing Procedures provide that ''[a] User may only have one order for new cabinets and/or additional power on the Combined Waitlist at a time . . . .'' [10] The Exchange has become aware that some Users are attempting to circumvent this provision by submitting additional orders in the names of entities affiliated with the User.[11]

The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Such actions by Users could result in a distribution of cabinets and power that is contrary to the intent of the Cabinet Limits and Combined Limits, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more cabinets and power than the Cabinet Limits and Combined Limits allow, to the detriment of other Users seeking to purchase cabinets or power.

To address this issue, the Exchange proposes to amend the Existing Procedures to add to General Note 8(b) that ''[w]hile a User is on the Combined Waitlist, no Affiliate of such User may also be on the Combined Waitlist.'' The Exchange similarly proposes to amend General Note 8(a), regarding the Cabinet Waitlist, to provide that ''[w]hile a User is on the Cabinet Waitlist, no Affiliate of such User may also be on the Cabinet Waitlist.'' The term ''Affiliate'' is already defined in the Co-Location Fees section of the Fee Schedule as follows: ''An 'Affiliate' of a User is any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.'' This definition of ''Affiliate'' was introduced in connection with the Exchange's filing regarding partial cabinet solutions, and the Exchange believes that the definition is appropriate to also use in the present context.[12]

Proposed Changes to the Purchasing Limit Procedures

The Exchange also proposes to amend the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 to prevent Users from circumventing the Cabinet Limits and Combined Limits in a similar fashion when they are in effect but a waitlist is not. The Existing Procedures provide that when the Cabinet Limit or Combined Limits are in effect, a User will have to wait 30 days from the date of the User's signed order before purchasing cabinets or power again. The Exchange proposes to amend such provisions to specify that this 30-day limitation applies not just to Users that have already purchased cabinets or power subject to the applicable Purchasing Limit, but also to any Affiliate of such User, so long as the applicable Purchasing Limit remains in effect.

General

The proposed rule change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and with Section 6(b)(5),[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would prevent a User from obtaining a greater share of cabinets and power than the Existing Procedures intended, and thereby facilitate a more equitable distribution of cabinets and power.

As noted above, the Exchange has become aware that some Users are attempting to circumvent the Combined Waitlist by submitting additional orders in the names of entities affiliated with the User, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Combined Waitlist at the same time. The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Unless prohibited, such actions by Users could result in an inequitable distribution of cabinets and power, with Users that are

would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–66; SR–NYSEAMER–2021–42; SR–NYSEArca-2021–96; SR–NYSENAT–2021–22.

[7] *See* Securities Exchange Act Release No. 90732 (December 18, 2020), 85 FR 84443 (December 28, 2020) (SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca-2020–82, SR–NYSECHX–2020–26, and SR–NYSENAT–2020–28).

[8] *See* Securities Exchange Act Release No. 91515 (April 8, 2021), 86 FR 19674 (April 14, 2021) (SR–NYSE–2021–12, SR–NYSEAMER–2021–08, SRNYSENAT–2021–03, SR–NYSEArca-2021–11, and SR–NYSECHX–2021–02). The Existing Procedures are set forth in General Notes 7 and 8 under ''Co-location Fees'' in the Fee Schedule.

[9] *See* Fee Schedule, Co-Location Fees, General Notes 7 and 8.

[10] *See* Fee Schedule, Co-Location Fees, General Note 8(b).

[11] For example, a User that wants 64 kW could submit an order for 32 kW to the Combined Waitlist, and then have an affiliated entity submit a second order to the Combined Waitlist for an additional 32 kW. Once the affiliated entity obtained its 32 kW, it could assign the power to the User. As a result, the User would obtain two times more power than the Combined Limit would allow. The Exchange has been informed that at least one User has contemplated utilizing affiliates for this purpose.

[12] To the extent that the Combined Waitlist currently includes orders submitted by two or more Users that are Affiliates, the Exchange intends to remove all but the first of such Affiliates' orders from the Combined Waitlist upon this proposed rule change becoming operative.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

willing to submit multiple orders in the names of their affiliates obtaining more than their intended share of cabinets and power, to the detriment of other Users seeking to purchase cabinets and power. The proposed rule change to General Note 8 would address this concern.

The Exchange believes that the proposed amendments to the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 would similarly prevent Users from circumventing the Cabinet Limits and Combined Limits when there is no waitlist in effect. The Exchange believes that having both Users and their Affiliates wait 30 days from the date of the signed order to purchase new cabinets or power would foreclose Users' ability to use their Affiliates to obtain a greater portion of the cabinets and power available. In this way, the Exchange believes that that the proposed amendments to General Note 7 would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposed rule change would not unfairly discriminate between or among market participants, as it would apply to all types and sizes of market participants equally.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to prevent Users from obtaining an unfair competitive advantage by submitting multiple orders in the names of affiliated entities, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Cabinet Waitlist or the Combined Waitlist at the same time and to obtain a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. The proposed rule change would prevent a User from obtaining this unfair competitive advantage, thereby facilitating a more equitable distribution of cabinets and power.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b-4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b-4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that implementing the proposed rule change as soon as possible would allow the Exchange to prevent Users from unfairly obtaining more cabinets or power than the Existing Procedures were intended to provide. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[22] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSECHX–2021–16 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2021–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78s(b)(2)(B).

filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSECHX–2021–16 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25357 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93594; File No. SR–PEARL–2021–55]**

## Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule and the MIAX Pearl Equities Fee Schedule To Establish a Policy Relating to Billing Errors

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2021, MIAX PEARL, LLC (''MIAX Pearl'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule and the MIAX Pearl Equities Fee Schedule to establish a policy relating to billing errors.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend MIAX's Pearl Fee Schedule and the MIAX Pearl Equities Fee Schedule to establish a policy relating to billing errors. More specifically, the Exchange proposes to amend the footer on the Title page of each Fee Schedule to adopt language that would provide that all fees and rebates assessed prior to the three full calendar months before the month in which the Exchange becomes aware of a billing error shall be considered final. Particularly, the Exchange will resolve an error by crediting or debiting Members[3] and non-Members based on the fees or rebates that should have been applied in the three full calendar months preceding the month in which the Exchange became aware of the error, which includes all impacted transactions that occurred during those months.[4] The Exchange will apply the three month look back regardless of whether the error was discovered by the Exchange or by a Member or non-Member that submitted a fee dispute to the Exchange.[5]

The purpose of the proposed change is to encourage Members and non-Members to promptly review their Exchange invoices so that any disputed charges can be addressed in a timely manner. The Exchange notes that it provides Members with both daily and monthly fee reports and thus believes they should be aware of any potential billing errors within three months. Further, any fees assessed on non-Members are sent as monthly invoices, and thus these firms will likewise receive sufficient notice of any potential billing errors. The requirement that Members and non-Members submit disputes in writing and provide supporting documentation in a timely manner while the information and data underlying those charges (*e.g.,* applicable fees and order information) is still easily and readily available is not changing under this proposal.

The proposed rule change to provide all fees and rebates assessed prior to the three full calendar months before the month in which the Exchange becomes aware of a billing error shall be considered final provides both the Exchange and Members and non-Members finality and the ability to close their books after a known period of time. The proposed change encourages Members and non-Members to provide a timely review of their billing invoices.

The Exchange notes that it routinely conducts audits of its Members and non-Members to ensure that each is complying with the terms and conditions of the subscriber agreement they have signed. The audit process is independent of the billing process. The audit function is administered by the Exchange's Member Services Group and the billing function is administered by the Exchange's Trading Operations Group. Each group is charged with distinct responsibilities that do not overlap. The proposed billing fee finality provision is not intended to circumvent the audit process in any manner and the adoption of the three month look back period, beyond which billing errors would be considered final, would not affect a Member or non-Member's ability to take a position with respect to billing charges identified through the audit process.

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the MIAX Pearl Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] For example, if the Exchange becomes aware of a transaction fee billing error on December 1, 2021, the Exchange will resolve the error by crediting or debiting Members and non-Members based on the fees or rebates that should have been applied to any impacted transactions during September, October and November 2021. The Exchange notes that because it bills in arrears, the Exchange would be able to correct the error in advance of issuing the December 2021 invoice and therefore, transactions impacted through the date of discovery (in this example, December 1, 2021) and thereafter, would be billed correctly.

[5] The Exchange notes that the current policy which states that all fee disputes must be submitted no later than sixty (60) days after receipt of a billing invoice will remain in place.

Further, the Exchange notes that the proposed change is similar to a policy currently in place at another exchange.[6]

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedules is consistent with Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that establishing a policy that all fees and rebates are final after three months (*i.e.,* resolving billing errors only for the three full calendar months preceding the month in which the Exchange became aware of the error), is reasonable as both the Exchange and Members and non-Members have an interest in knowing when its fee assessments are final and when reliance can be placed upon those assessments. Indeed, without some deadline on billing errors, the Exchange and Members and non-Members would never be able to close their books with any confidence. Furthermore, as noted above, another exchange similarly considers its fees final after a similar period of time. The proposed change is also equitable, and not unfairly discriminatory because it will apply equally to all Members (and non-Members that pay Exchange fees) and apply in cases where either the Member (or non-Member) discovers the error or the Exchange discovers the error.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would establish a policy that provides clarity regarding billing errors that would apply equally to all Members. Additionally, the proposed rule change is similar to the rules of another exchange.[10] The Exchange does not believe such proposed changes would impair the ability of Members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because the proposed changes would apply equally to all Members, the proposal does not impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because such a waiver would allow Members and non-Members to immediately benefit from having a clearly stated policy regarding fee finality for billing disputes and provide certainty and finality to current and prospective billing errors. In addition, the Exchange states that the proposed rule change is comparable to other policies and practices that are already established at another exchange.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to modify its Fee Schedules to immediately adopt a policy relating to billing errors that is designed to provide clarity and certainty with respect to when Exchange fees and rebates may be considered final. Further, the proposed rule change is substantially similar to provisions currently in effect on other national securities exchanges[15] and therefore does not raise any new or novel regulatory issues. Accordingly, the Commission waives the operative delay and designates the proposed rule change operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2021–55 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2021–55. This file

[6] *See* Securities Exchange Act Release No. 91836 (May 11, 2021), 86 FR 26765 (May 17, 2021) (SR–BOX–2021–08).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *Supra* note 6.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See, e.g., supra* note 6.

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2021–55 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25360 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93584; File No. SR–MRX–2021–11]**

## Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2021, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend MRX's Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, to reflect adjustments to FINRA Registration Fees. Additionally, this rule change adds Continuing Education Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on January 2, 2022.[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

This proposal amends MRX's Pricing Schedule at Options 7, Section 5, Other Options Fees and Rebates, to reflect adjustments to FINRA Registration Fees.[4] Additionally, this rule change adds Continuing Education Fees. The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of MRX members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

Today, MRX Options 7, Section 5D, provides a list of FINRA Web CRD Fees, Fingerprint Processing Fees, and Continuing Education Fees. The Exchange proposes to amend the introductory paragraph to add a sentence to make clear that FINRA collects the fees listed within Options 7, Section 5D on behalf of the Exchange. The fees listed within Options 7, Section 5D reflect fees set by FINRA.

Specifically, with respect to the General Registration Fees, the Exchange proposes to increase the $100 fee to $125 for each initial Form U4 filed for the registration of a representative or principal. This amendment is made in accordance with a recent FINRA rule change to adjust to its fees.[5]

The Exchange also proposes to add Continuing Education Fees to reflect current fees assessed by FINRA. The Exchange proposes to provide an introductory paragraph which states, ''The Continuing Education Fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange General 4, Section 1240. This fee is paid directly to FINRA.'' Additionally, the Exchange proposes to add the following rule text, ''$100.00 ($55.00 if the Continuing Education is Web-based) for each individual who is required to complete the S101 or S201.'' This proposed rule text reflects FINRA's current S101 and S201 registration fees.[6] This amendment will make clear the current Continuing Education Fees that FINRA assesses today.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *Id.* FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[6] *See* Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (SR–FINRA–2015–015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements).

of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 in accordance with an adjustment to FINRA's fees.[9] The Exchange's rule text will reflect the current registration rate that will be assessed by FINRA as of January 2, 2022. Additionally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees will bring greater transparency to its fees. Also, adding Continuing Education Fees to reflect the current fee of $100.00 for each individual who is required to complete the S101 or S201 and $55.00 if the Continuing Education is Web-based will bring greater transparency to the Continuing Education fees currently assessed by FINRA. Finally, referencing the rule which governs the Regulatory Element of the Continuing Education Requirements and, noting that the fee is paid directly to FINRA, will provide more information to Members regarding the fees for Continuing Education. The proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons. These costs are borne by FINRA when a Non-FINRA member uses Web CRD.

The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 is equitable and not unfairly discriminatory as the amendment will reflect the current fee that will be assessed by FINRA to all Members who require Form U4 filings as of January 2, 2022. Additionally, reflecting the current Continuing Education Fees for the S101 or S201 is equitable and not unfairly discriminatory as FINRA currently assesses these rates to all Members that are required to have those registrations. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Regulatory Element of the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal is also equitable and not unfairly discriminatory because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this proposal creates an unnecessary or inappropriate inter-market burden on competition as FINRA's fees apply to all market participants. Additionally, the Exchange does not believe that this proposal creates an unnecessary or inappropriate intra-market burden on competition as the increased fee for each initial Form U4 filed for the registration of a representative or principal will be assessed by FINRA to all Members who require Form U4 filings as of January 2, 2022. Also, reflecting the current Continuing Education Fees for the S101 or S201 does not impose an undue burden on competition as FINRA currently assesses these rates to all Members that are required to have those registrations. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Regulatory Element of the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2021–11 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MRX–2021–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See* note 3 above.

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

to make available publicly. All submissions should refer to File Number SR–MRX–2021–11, and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25351 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93590; File No. SR–NYSEArca–2021–96]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the Procedures for the Allocation of Cabinets and Power to Its Colocated Users

November 16, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 3, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update the procedures for the allocation of cabinets and power to its colocated Users. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to establish[4] procedures for the allocation of power to its co-located[5] Users.[6]

In December 2020, the Exchange established procedures for the allocation of cabinets in colocation should it become needed.[7] In April 2021, the Exchange added procedures for the allocation of power in colocation (together with the cabinet procedures, the ''Existing Procedures'').[8]

Proposed Changes to the Waitlist Procedures

Pursuant to the Existing Procedures, a Combined Waitlist is currently in effect. To be placed on the Combined Waitlist, a User must submit an order that complies with the Combined Limits—that is, the order must be for no more than 32 kW, and no more than four dedicated cabinets with standard power allocations of 4 kW or 8 kW as part of the 32 kW total.[9]

The Existing Procedures provide that ''[a] User may only have one order for new cabinets and/or additional power on the Combined Waitlist at a time . . . .''[10] The Exchange has become aware that some Users are attempting to circumvent this provision by submitting additional orders in the names of entities affiliated with the User.[11]

The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Such actions by Users could result in a distribution of cabinets and power that is contrary to the intent of the Cabinet Limits and Combined Limits, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more cabinets and power than the Cabinet Limits and Combined Limits allow, to the detriment of other Users seeking to purchase cabinets or power.

To address this issue, the Exchange proposes to amend the Existing Procedures to add to General Note 8(b) that ''[w]hile a User is on the Combined Waitlist, no Affiliate of such User may also be on the Combined Waitlist.'' The Exchange similarly proposes to amend General Note 8(a), regarding the Cabinet Waitlist, to provide that ''[w]hile a User is on the Cabinet Waitlist, no Affiliate of such User may also be on the Cabinet Waitlist.'' The term ''Affiliate'' is already defined in the Co-Location Fees section of the Fee Schedules as follows: ''An 'Affiliate' of a User is any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.'' This definition of ''Affiliate'' was introduced in connection with the Exchange's filing regarding partial cabinet solutions, and the Exchange believes that the

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission notes that the Exchange proposes to update previously established procedures for allocation of cabinets and power to its colocated Users.

[5] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100).

[6] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the NYSE Arca Options Fees and Charges and the NYSE Arca Equities Fees and Charges (together, the ''Fee Schedules''), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–66; SR–NYSEAMER–2021–42; SR–NYSECHX–2021–16; SR–NYSENAT–2021–22.

[7] *See* Securities Exchange Act Release No. 90732 (December 18, 2020), 85 FR 84443 (December 28, 2020) (SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca-2020–82, SR–NYSECHX–2020–26, and SR–NYSENAT–2020–28).

[8] *See* Securities Exchange Act Release No. 91515 (April 8, 2021), 86 FR 19674 (April 14, 2021) (SR–NYSE–2021–12, SR–NYSEAMER–2021–08, SRNYSENAT–2021–03, SR–NYSEArca–2021–11, and SR–NYSECHX–2021–02). The Existing Procedures are set forth in General Notes 7 and 8 under ''Co-location Fees'' in the Fee Schedules.

[9] *See* Fee Schedules, Co-Location Fees, General Notes 7 and 8.

[10] *See* Fee Schedules, Co-Location Fees, General Note 8(b).

[11] For example, a User that wants 64 kW could submit an order for 32 kW to the Combined Waitlist, and then have an affiliated entity submit a second order to the Combined Waitlist for an additional 32 kW. Once the affiliated entity obtained its 32 kW, it could assign the power to the User. As a result, the User would obtain two times more power than the Combined Limit would allow. The Exchange has been informed that at least one User has contemplated utilizing affiliates for this purpose.

definition is appropriate to also use in the present context.[12]

Proposed Changes to the Purchasing Limit Procedures

The Exchange also proposes to amend the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 to prevent Users from circumventing the Cabinet Limits and Combined Limits in a similar fashion when they are in effect but a waitlist is not. The Existing Procedures provide that when the Cabinet Limit or Combined Limits are in effect, a User will have to wait 30 days from the date of the User's signed order before purchasing cabinets or power again. The Exchange proposes to amend such provisions to specify that this 30-day limitation applies not just to Users that have already purchased cabinets or power subject to the applicable Purchasing Limit, but also to any Affiliate of such User, so long as the applicable Purchasing Limit remains in effect.

General

The proposed rule change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedules is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and with Section 6(b)(5),[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would prevent a User from obtaining a greater share of cabinets and power than the Existing Procedures intended, and thereby facilitate a more equitable distribution of cabinets and power.

As noted above, the Exchange has become aware that some Users are attempting to circumvent the Combined Waitlist by submitting additional orders in the names of entities affiliated with the User, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Combined Waitlist at the same time. The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Unless prohibited, such actions by Users could result in an inequitable distribution of cabinets and power, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more than their intended share of cabinets and power, to the detriment of other Users seeking to purchase cabinets and power. The proposed rule change to General Note 8 would address this concern.

The Exchange believes that the proposed amendments to the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 would similarly prevent Users from circumventing the Cabinet Limits and Combined Limits when there is no waitlist in effect. The Exchange believes that having both Users and their Affiliates wait 30 days from the date of the signed order to purchase new cabinets or power would foreclose Users' ability to use their Affiliates to obtain a greater portion of the cabinets and power available. In this way, the Exchange believes that that the proposed amendments to General Note 7 would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposed rule change would not unfairly discriminate between or among market participants, as it would apply to all types and sizes of market participants equally.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to prevent Users from obtaining an unfair competitive advantage by submitting multiple orders in the names of affiliated entities, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Cabinet Waitlist or the Combined Waitlist at the same time and to obtain a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. The proposed rule change would prevent a User from obtaining this unfair competitive advantage, thereby facilitating a more equitable distribution of cabinets and power.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[18]

[12] To the extent that the Combined Waitlist currently includes orders submitted by two or more Users that are Affiliates, the Exchange intends to remove all but the first of such Affiliates' orders from the Combined Waitlist upon this proposed rule change becoming operative.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that implementing the proposed rule change as soon as possible would allow the Exchange to prevent Users from unfairly obtaining more cabinets or power than the Existing Procedures were intended to provide. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2021–96 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–96. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–96 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25356 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93593; File No. SR–EMERALD–2021–40]**

## Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Fee Schedule To Establish a Policy Relating to Billing Errors

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2021, MIAX Emerald, LLC (''MIAX Emerald'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Emerald Fee Schedule (the ''Fee Schedule'') to establish a policy relating to billing errors.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald* at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend MIAX Emerald's Fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Schedule to establish a policy relating to billing errors. More specifically, the Exchange proposes to amend the footer on the Title page of its Fee Schedule to adopt language that would provide that all fees and rebates assessed prior to the three full calendar months before the month in which the Exchange becomes aware of a billing error shall be considered final. Particularly, the Exchange will resolve an error by crediting or debiting Members [3] and non-Members based on the fees or rebates that should have been applied in the three full calendar months preceding the month in which the Exchange became aware of the error, which includes all impacted transactions that occurred during those months.[4] The Exchange will apply the three month look back regardless of whether the error was discovered by the Exchange or by a Member or non-Member that submitted a fee dispute to the Exchange.[5]

The purpose of the proposed change is to encourage Members and non-Members to promptly review their Exchange invoices so that any disputed charges can be addressed in a timely manner. The Exchange notes that it provides Members with both daily and monthly fee reports and thus believes they should be aware of any potential billing errors within three months. Further, any fees assessed on non-Members are sent as monthly invoices, and thus these firms will likewise receive sufficient notice of any potential billing errors. The requirement that Members and non-Members submit disputes in writing and provide supporting documentation in a timely manner while the information and data underlying those charges (*e.g.,* applicable fees and order information) is still easily and readily available is not changing under this proposal.

The proposed rule change to provide all fees and rebates assessed prior to the three full calendar months before the month in which the Exchange becomes aware of a billing error shall be considered final provides both the Exchange and Members and non-Members finality and the ability to close their books after a known period of time. The proposed change encourages Members and non-Members to provide a timely review of their billing invoices.

The Exchange notes that it routinely conducts audits of its Members and non-Members to ensure that each is complying with the terms and conditions of the subscriber agreement they have signed. The audit process is independent of the billing process. The audit function is administered by the Exchange's Member Services Group and the billing function is administered by the Exchange's Trading Operations Group. Each group is charged with distinct responsibilities that do not overlap. The proposed billing fee finality provision is not intended to circumvent the audit process in any manner and the adoption of the three month look back period, beyond which billing errors would be considered final, would not affect a Member or non-Member's ability to take a position with respect to billing charges identified through the audit process.

Further, the Exchange notes that the proposed change is similar to a policy currently in place at another exchange.[6]

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) [8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that establishing a policy that all fees and rebates are final after three months (*i.e.,* resolving billing errors only for the three full calendar months preceding the month in which the Exchange became aware of the error), is reasonable as both the Exchange and Members and non-Members have an interest in knowing when its fee assessments are final and when reliance can be placed upon those assessments. Indeed, without some deadline on billing errors, the Exchange and Members and non-Members would never be able to close their books with any confidence. Furthermore, as noted above, another exchange similarly considers its fees final after a similar period of time. The proposed change is also equitable, and not unfairly discriminatory because it will apply equally to all Members (and non-Members that pay Exchange fees) and apply in cases where either the Member (or non-Member) discovers the error or the Exchange discovers the error.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would establish a policy that provides clarity regarding billing errors that would apply equally to all Members. Additionally, the proposed rule change is similar to the rules of another exchange.[10] The Exchange does not believe such proposed changes would impair the ability of Members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because the proposed changes would apply equally to all Members, the proposal does not impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] For example, if the Exchange becomes aware of a transaction fee billing error on December 1, 2021, the Exchange will resolve the error by crediting or debiting Members and non-Members based on the fees or rebates that should have been applied to any impacted transactions during September, October and November 2021. The Exchange notes that because it bills in arrears, the Exchange would be able to correct the error in advance of issuing the December 2021 invoice and therefore, transactions impacted through the date of discovery (in this example, December 1, 2021) and thereafter, would be billed correctly.

[5] The Exchange notes that the current policy which states that all fee disputes must be submitted no later than sixty (60) days after receipt of a billing invoice will remain in place.

[6] *See* Securities Exchange Act Release No. 91836 (May 11, 2021), 86 FR 26765 (May 17, 2021) (SR–BOX–2021–08).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *Supra* note 6.

operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because such a waiver would allow Members and non-Members to immediately benefit from having a clearly stated policy regarding fee finality for billing disputes and provide certainty and finality to current and prospective billing errors. In addition, the Exchange states that the proposed rule change is comparable to other policies and practices that are already established at another exchange.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to modify its Fee Schedule to immediately adopt a policy relating to billing errors that is designed to provide clarity and certainty with respect to when Exchange fees and rebates may be considered final. Further, the proposed rule change is substantially similar to provisions currently in effect on other national securities exchanges [15] and therefore does not raise any new or novel regulatory issues. Accordingly, the Commission waives the operative delay and designates the proposed rule change operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EMERALD–2021–40 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–EMERALD–2021–40. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EMERALD–2021–40 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25359 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See, e.g., supra* note 6.

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93586; File No. SR–NYSEArca–2021–98]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 6.64–O To Provide an Option for OTP Holders and OTP Firms To Instruct the Exchange To Cancel Marketable Orders If a Series Is Not Opened Within a Specified Time Period

November 16, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 12, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.64–O (OX Opening Process) to provide an option for OTP Holders and OTP Firms to instruct the Exchange to cancel Marketable orders if a series is not opened within a specified time period. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 6.64–O (OX Opening Process) to provide an option for OTP Holders and OTP Firms to instruct the Exchange to cancel Marketable [4] orders if a series is not opened within a specified time period. The Exchange notes that this proposal is substantively identical to a recent rule change on NYSE American, LLC.[5]

Rule 6.64–O sets forth the Exchange's process for opening and reopening a series for trading. Rule 6.64–O(b) provides that the Exchange will accept market and limit orders for inclusion in the opening auction process (''Auction Process'') until such time as the Auction Process is initiated in that option series. As further provided for in Rule 6.64–O(b), once the primary market for the underlying security disseminates a quote and a trade that is at or within the quote, the Exchange will open the related option series automatically based on the principles and procedures set forth in paragraphs (A)–(F) of Rule 6.64–O(b). However, as described in Rule 6.64–O(b)(D), the Exchange will not conduct an Auction Process if the bid-ask differential for that series is not within an acceptable range, *i.e.,* is not within the bid-ask differential guidelines established in Rule 6.37–O(b)(4). Because Rule 6.64–O(b)(D) cross-references the bid-ask differential requirement of Rule 6.37–O(b)(4), which relates to the obligations of Market Makers in appointed classes, the Exchange will not open a series for trading if Market Makers have not entered quotations in a series that are within such bid-ask differentials. If a series does not open for trading, market and limit orders entered in advance of the Auction Process will remain in the Consolidated Book and will not be routed, even if another exchange opens that series for trading and such orders become Marketable against an away market NBBO.

The Exchange proposes to amend Rule 6.64–O to provide OTP Holders and OTP Firms with an option to instruct the Exchange to cancel their Marketable orders if an option series has not been opened within a specified time period. As proposed, new subparagraph (d) to Rule 6.64–O [6] would provide that an OTP Holder or OTP Firm may instruct the Exchange to cancel all Marketable orders in a series, including GTC Orders, if that series has not opened within a designated time period after the Exchange receives notification that the primary market for the underlying security has disseminated a quote and a trade that is at or within the quote. This proposed change is designed to provide OTP Holders and OTP Firms that electronically enter orders before Core Trading Hours [7] begin in a multitude of option series with an optional risk protection mechanism for the Exchange to automatically cancel Marketable orders on their behalf. OTP Holders and OTP Firms could submit requests to cancel such orders themselves, but would have to monitor which series have been opened on the Exchange. The proposed optional functionality would reduce operational risk for OTP Holders and OTP Firms that sent orders in multiple series by providing them with a bulk cancel feature that would instruct the Exchange to cancel orders on their behalf if a series has not been opened by a specified time. Specifically, rather than have Marketable orders remain unexecuted on the Consolidated Book if the option series has not opened on the Exchange within a specified time period, OTP Holders and OTP Firms would have the option to instruct the Exchange to cancel such orders back to the OTP Holder/OTP Firm. Once cancelled back, the OTP Holder/OTP Firm could choose to re-enter such orders on an exchange that has opened that series for trading.

The Exchange further proposes to provide that the Exchange would not cancel any Marketable orders received after the designated time period ends, even if the series has not yet opened. The Exchange believes that if an OTP Holder or OTP Firm sends an order in an option series to the Exchange after Core Trading Hours begin, and more than the designated time period after the primary market for the underlying security has opened (*i.e.,* the series open trigger), such OTP Holder/OTP Firm should be aware that the Exchange has not opened that series for trading when it sends the order to the Exchange, and therefore intends for such order to be sent to the Exchange even though it has not yet opened that series for trading.

Proposed Rule 6.64–O(d) would also provide that the designated time period would be two minutes, unless determined otherwise by the Exchange and announced to OTP Holders and OTP Firms via Trader Update, in which case the designated time period would not be greater than five minutes. The Exchange believes that a two-minute period would provide time for Market Makers to update their quotes after the Exchange receives the series open trigger so that the bid-ask differential in an option series can be within an acceptable range and therefore the series can open for trading on the Exchange. Specifically, the Exchange has observed that on a typical trading day, nearly 98% of all series are opened by 9:32 a.m. Eastern Time, and nearly 99% of all series are opened by 9:35 a.m. Eastern Time. By waiting two minutes before cancelling orders, the Exchange believes that the majority of series would be opened, thereby minimizing the number of series where there would be a bulk cancel of Marketable orders. In addition, OTP Holders and OTP Firms that want to cancel orders less than two minutes after the series open trigger would still be able to submit requests to cancel individual orders. The Exchange further believes that it is appropriate to provide the Exchange with the ability to adjust the designated time period via Trader Update to no more than five minutes because it would provide additional flexibility for the Exchange to respond to the needs of OTP Holders and OTP Firms to implement the instruction to cancel Marketable orders on a different time basis. The Exchange believes that a cap of five minutes would be reasonable because very few series remain

[4] The term ''Marketable'' is defined in Rule 6.1A–O(a)(7) to mean, for a Limit Order, the price matches or crosses the NBBO on the other side of the market. Market orders are always considered marketable.

[5] *See* Securities Exchange Act Release No. 92668 (August 13, 2021), 86 FR 46746 (August 19, 2021) (SR–NYSEAMER–2021–36) (Notice of filing and immediate effectiveness of proposed rule change to amend Rule 952NY to provide an option for ATP Holders to instruct the Exchange to cancel marketable orders if a series is not opened within a specified time period) (''NYSE American Filing'').

[6] The Exchange proposes a non-substantive amendment to Rule 6.64–O to renumber current subparagraph (d) to that Rule as subparagraph (e).

[7] The term ''Core Trading Hours'' is defined in Rule 6.1A–O(a)(3) to mean the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange.

unopened five minutes after the series open trigger. The Exchange notes that this is an optional instruction, and therefore no OTP Holder nor OTP Firm is required to use this proposed new risk feature. The Exchange further notes that Exchange flexibility in connection with designating time periods for risk limitation measures is consistent with current Exchange rules.[8]

Finally, proposed Rule 6.64–O(d) would provide that this instruction would not be available for orders entered by Floor Brokers via the Electronic Order Capture System.[9] The current EOC provider could not systemically apply the proposed optional instruction on a firm-by firm basis and therefore it would not be available to individual Floor Brokers. The Exchange believes that because of the unique role of Floor Brokers on the Exchange to provide manual, high-touch services on behalf of customers, Floor Brokers should not need this optional feature. Specifically, unlike an off-Floor OTP Holder/OTP Firm that may be relying on an algorithm to send orders in a multitude of series, a Floor Broker that provides high-touch services would be present on the Trading floor and in a position to monitor whether the Exchange has opened a series, and if not, whether to cancel an order that becomes Marketable.

The Exchange will announce via Trader Update when this proposed optional feature will be available, which, subject to effectiveness of this proposed rule change, the Exchange anticipates will be in the fourth quarter of 2021.

2. Statutory Basis

For the reasons set forth above, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[11] in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is designed to provide OTP Holders and OTP Firms with an optional risk protection mechanism to instruct the Exchange to cancel Marketable orders in an option series on their behalf if that series has not opened on the Exchange within a specified time period. The Exchange does not open a series if Market Makers have not quoted within the acceptable range of bid-ask differentials as specified in Rule 6.37–O(b)(4). However, it is possible that another exchange, with different opening process rules, could have opened that series for trading even if the Exchange does not. If an order that an OTP Holder or OTP Firm sent to the Exchange before Core Trading Hours begins becomes Marketable on another exchange before the Exchange opens that series for trading, such OTP Holder/OTP Firm could choose to cancel the order and then send it to the other exchange. By providing OTP Holders and OTP Firms with an option to instruct the Exchange to cancel their Marketable orders in a series under the specified circumstances, the Exchange would perform this monitoring function on behalf of OTP Holders and OTP Firms, thereby reducing their operational risk.

The Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to provide that such instructions would not be applicable to Marketable orders received after the designated time period ends because the Exchange believes that OTP Holders and OTP Firms that send orders to the Exchange more than a specified period after series open trigger should be aware that the Exchange has not yet opened that series for trading. Therefore, any orders sent after that designated time period ends were likely purposefully directed to the Exchange even though the Exchange has not yet opened that series for trading.

The Exchange believes that the proposed designated time period of two minutes would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is designed to provide time for Market Makers to update their quotes so that the bid-ask differential in an option series is within an acceptable range and therefore the series can open for trading on the Exchange. The Exchange believes that the proposed two-minute period is reasonable because on a typical trading day, approximately 98% of all series that trade on the Exchange are open. OTP Holders and OTP Firms that want to cancel orders less than two minutes after the series open trigger would still be able to submit requests to cancel individual orders. The Exchange further believes that providing the Exchange with flexibility to change the designated time period via Trader Update, provided that it would never be longer than five minutes, would enable the Exchange to respond to the needs of OTP Holders and OTP Firms to implement the instruction to cancel Marketable orders on a different time basis. The Exchange believes that the proposed cap of five minutes would remove impediments to and perfect the mechanism of a free and open market and a national market system because on a typical day, approximately 99% of all series are opened by 9:35 a.m. Eastern Time. The Exchange further notes that this proposed risk mechanism would be optional, and therefore OTP Holders and OTP Firms would not be required to request that the Exchange cancel unexecuted Marketable orders on their behalf if a series has not opened within the designated time period. In addition, Exchange flexibility in connection with designating time periods for risk limitation measures is consistent with current Exchange rules.[12]

Finally, the Exchange believes that the proposal that the optional instruction would not be available for orders entered by Floor Brokers via the EOC would remove impediments to and perfect the mechanism of a free and open market and a national market system because the current EOC provider could not systemically apply the proposed optional instruction on a firm-by firm basis. The instruction could therefore not be segregated by individual Floor Brokers that each use the EOC. The Exchange believes that because of the unique role of Floor Brokers on the Exchange to provide manual, high-touch services on behalf of customers, Floor Brokers should not need this optional bulk-cancel feature. Specifically, unlike an off-Floor OTP

[8] *See, e.g.,* Commentary .03 to Rule 6.40–O (Risk Limitation Mechanism) (providing that the Exchange will ''specify via Trader Update any applicable time period(s) for the Risk Limitation Mechanisms; provided, however, that the Exchange will not specify a time period of less than 100 milliseconds, inclusive of the duration of any trading halt occurring within that time''). The Exchange also provides for flexibility in its rules for other risk mechanism parameters. *See, e.g.,* Rule 6.60–O(b) (''Unless determined otherwise by the Exchange and announced to OTP Holders and OTP Firms via Trader Update, the specified percentage shall be as follows: 100% for the contra-side NBB or NBO priced at or below $1.00; and 50% for the contra-side NBB or NBO priced above $1.00.'')

[9] As defined in Rule 6.1–O(b)(39), the term ''Electronic Order Capture System'' or ''EOC'' means the Exchange's electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions on the Exchange. As further defined, the EOC includes the electronic communications interface between EOC booth terminals and the Floor Broker Hand Held applications and also contains an electronic order entry screen.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *See supra* note 8.

Holder/OTP Firm that may be relying on an algorithm to send orders in a multitude of series, a Floor Broker that provides high-touch services would be present on the Trading floor and in a position to monitor whether the Exchange has opened a series, and if not, whether to cancel an order that becomes Marketable.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change would impose any burden on intermarket competition, as the proposed rule change is designed to provide an option for OTP Holders and OTP Firms to instruct the Exchange to cancel Marketable orders if an option series does not open on the Exchange within a designated time period. The Exchange believes that the proposed rule change would promote intermarket competition because if the Exchange cancels such orders on the instruction of an OTP Holder/OTP Firm, such OTP Holder/OTP Firm could then choose to route such orders to another exchange that has opened the option series for trading.

The Exchange does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change provides for optional functionality. OTP Holders and OTP Firms would not be required to use this functionality. In addition, the Exchange believes that because of the unique role of Floor Brokers on the Exchange to provide manual, high-touch services on behalf of customers, Floor Brokers should not need this optional bulk-cancel feature and it would not impose any undue burden on intramarket competition not to provide this optional feature to Floor Brokers. Specifically, unlike an off-Floor OTP Holder/OTP Firm that may be relying on an algorithm to send orders in a multitude of series, a Floor Broker that provides high-touch services would be present on the Trading floor and in a position to monitor whether the Exchange has opened a series, and if not, whether to cancel an order that becomes Marketable.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative prior to 30 days after the date of the filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change, as described above, would offer OTP Holders and OTP Firms an additional, and optional, risk limitation feature to instruct the Exchange to cancel their Marketable orders if the Exchange does not open an option series within a designated time frame. The Exchange further states that the technology supporting the proposed rule change will be available prior to 30 days after the date of the filing, and the Exchange seeks to implement the proposed rule change without delay. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca-2021–98 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–98. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE,

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2021–98, and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25352 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34 93582; File No. SR–ISE–2021–24]**

## Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on November 5, 2021, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE's Pricing Schedule at Options 7, Section 9, Legal & Regulatory, to reflect adjustments to FINRA Registration Fees. Additionally, this rule change amends the Continuing Education Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on January 2, 2022.[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

This proposal amends ISE's Pricing Schedule at Options 7, Section 9, Legal & Regulatory, to reflect adjustments to FINRA Registration Fees.[4] Additionally, this rule change amends the Continuing Education Fees. The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of ISE members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

Today, ISE Options 7, Section 9E, provides a list of FINRA Web CRD Fees, Fingerprint Processing Fees, and Continuing Education Fees. The Exchange proposes to amend the introductory paragraph to add a sentence to make clear that FINRA collects the fees listed within Options 7, Section 9E on behalf of the Exchange. The fees listed within Options 7, Section 9E reflect fees set by FINRA.

Specifically, with respect to the General Registration Fees, the Exchange proposes to increase the $100 fee to $125 for each initial Form U4 filed for the registration of a representative or principal. This amendment is made in accordance with a recent FINRA rule change to adjust to its fees.[5]

The Exchange also proposes to amend the Continuing Education Fees to update those fees to reflect current fees assessed by FINRA. The Exchange proposes to provide an introductory paragraph which states, ''The Continuing Education Fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange General 4, Section 1240. This fee is paid directly to FINRA.'' Additionally, the Exchange proposes to replace the current rule text[6] with the following rule text, ''$100.00 ($55.00 if the Continuing Education is Web-based) for each individual who is required to complete the S101 or S201.'' This proposed rule text reflects a rule change previously made by FINRA[7] which discontinued the S501 Regulatory Element. Since the time the S501 fee was discontinued, FINRA has been collecting the appropriate registration fees for the S101 and S201 registrations. This amendment will make clear the current Continuing Education Fees that FINRA assesses today.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *Id.* FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[6] The current rule text provides, ''$60–S501. Assessed to each individual who is solely registered as a Proprietary Trader required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Nasdaq ISE Rule 1240.''

[7] *See* Securities Exchange Act Release No. 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (SR–FINRA–2015–015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 in accordance with an adjustment to FINRA's fees.[10] The Exchange's rule text will reflect the current registration rate that will be assessed by FINRA as of January 2, 2022. Additionally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees will bring greater transparency to its fees. Also, amending the Continuing Education Fees to properly reflect the current fee of $100.00 for each individual who is required to complete the S101 or S201 and $55.00 if the Continuing Education is Web-based will bring greater transparency to the Continuing Education fees currently assessed by FINRA. Finally, referencing the rule which governs the Regulatory Element of the Continuing Education Requirements and, noting that the fee is paid directly to FINRA, will provide more information to Members regarding the fees for Continuing Education. The proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons. These costs are borne by FINRA when a Non-FINRA member uses Web CRD.

The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 is equitable and not unfairly discriminatory as the amendment will reflect the current fee that will be assessed by FINRA to all Members who require Form U4 filings as of January 2, 2022. Additionally, reflecting the current Continuing Education Fees for the S101 or S201 and removing outdated language is equitable and not unfairly discriminatory as FINRA currently assesses these rates to all Members that are required to have those registrations. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Regulatory Element of the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal is also equitable and not unfairly discriminatory because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that this proposal creates an unnecessary or inappropriate inter-market burden on competition as FINRA's fees apply to all market participants. Additionally, the Exchange does not believe that this proposal creates an unnecessary or inappropriate intra-market burden on competition as the increased fee for each initial Form U4 filed for the registration of a representative or principal will be assessed by FINRA to all Members who require Form U4 filings as of January 2, 2022. Also, reflecting the current Continuing Education Fees for the S101 or S201 and removing outdated language does not impose an undue burden on competition as FINRA currently assesses these rates to all Members that are required to have those registrations. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Regulatory Element of the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2021–24 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2021–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2021–24, and should be submitted on or before December 13, 2021.

[10] *See* note 3 above.

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25349 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93587; File No. SR–BX–2021–052]**

## Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Fees

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder, [2] notice is hereby given that on November 8, 2021, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX's Pricing Schedule at Equity 7, Section 30, Regulatory, Registration and Processing Fees, to reflect adjustments to FINRA Registration Fees, Fingerprinting Fees, and Continuing Education Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on January 2, 2022.[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

This proposal amends BX's Pricing Schedule at Equity 7, Section 30, Regulatory, Registration and Processing Fees, to reflect adjustments to FINRA Registration Fees, Fingerprinting Fees, and Continuing Education Fees.[4] The FINRA fees are collected and retained by FINRA via Web CRD for the registration of employees of BX members that are not FINRA members (''Non-FINRA members''). The Exchange is merely listing these fees on its Pricing Schedule. The Exchange does not collect or retain these fees.

Today, BX Equity 7, Section 30, provides a list of FINRA Fees. The Exchange proposes to amend the introductory paragraph to: (1) Indicate ''CRD'' is the ''Central Registration Depository'' or ''CRD''; (2) add a sentence to make clear that FINRA collects the fees listed within Equity 7, Section 30 on behalf of the Exchange; (3) add the title ''General Registration Fees:''; and (4) remove the numbering from (1) to (3).

With respect to the General Registration Fees, the Exchange proposes to increase the $100 fee to $125 for each initial Form U4 filed for the registration of a representative or principal. This amendment is made in accordance with a recent FINRA rule change to adjust to its fees.[5] The Exchange also proposes to amend the description of the $45 registration fee from ''annually for each of the member's registered representatives and principals for system processing'' to ''FINRA Annual System Processing Fee Assessed only during Renewals.'' The proposed new title is more precise.

With respect to the fingerprint processing fees, the Exchange notes that the current fees do not reflect the fees assessed by FINRA today. The Exchange proposes to amend the current fees to reflect the current fees that are assessed by FINRA. The proposed new rule text, with the title, ''Fingerprint Processing Fees:'' added, would provide,

Fingerprint Processing Fees:
$29.50—Initial Submission (Electronic)
$44.50—Initial Submission (Paper)
$15.00—Second Submission (Electronic)
$30.00—Second Submission (Paper)
$29.50—Third Submission (Electronic)
$44.50—Third Submission (Paper)
$30.00–FINRA Processing Fee for Fingerprint Results Submitted by Self-Regulatory Organizations other than FINRA.

In 2012, FINRA only offered one set of fees ($27.50 for the initial submission, $13.00 for the second submission, and $27.50 for the third submission). In 2013, FINRA amended its fingerprint fees and offered two sets of fees. For fingerprints submitted on paper card, the fees are $44.50 per initial submission, $30.00 per second submission, and $44.50 per third submission. For fingerprints submitted electronically, the fees are $29.50 per initial submission, $15.00 per second submission, and $29.50 per third submission.[6] By updating the fingerprinting fees, the Exchange would properly reflect the fees assessed today by FINRA.[7]

The Exchange is deleting the fees noted within current Equity 7, Section 9C [sic] at (4)–(6) and (8).[8] These

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90176 (October 14, 2020), 85 FR 66592 (October 20, 2020) (SR–FINRA–2020–032) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment and disciplinary histories of registered associated persons of broker-dealers.

[5] *Id.* FINRA noted in its rule change that it was adjusting its fees to provide sustainable funding for FINRA's regulatory mission.

[6] *See* Securities Exchange Act Release No. 67247 (June 25, 2012) 77 FR 38866 (June 29, 2012) (SR–FINRA–2012–030) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections 4 and 6 of Schedule A to the FINRA By-Laws Regarding Fees Relating to the Central Registration Depository). FINRA notes in this rule change that it is proposing a two-tiered fingerprint processing fee structure in part to reflect that the costs associated with processing fingerprints submitted via a hard copy fingerprint card are much higher than those that are submitted electronically. Specifically, fingerprints submitted by a hard copy card require additional processing by FINRA, including adding a barcode, if necessary, to the card for tracking purposes; scanning the fingerprints and converting them to a digital image for submission to the FBI; and, for first-time registrants, entering the individual's personal and demographic information into the CRD system. FINRA noted that members will be able to choose how they submit their associated persons' fingerprints and therefore will have some control over the fees they incur for fingerprint processing. FINRA also noted an FBI Fee of $11.25 is assessed as well.

[7] *See https://www.finra.org/registration-exams-ce/classic-crd/fingerprints/fingerprint-fees.*

[8] The Exchange proposes to delete the following rule text:

(4) $15 for processing and posting to the CRD system each set of fingerprints submitted electronically by the member, plus a pass-through of any other charge imposed by the United States Department of Justice for processing each set of fingerprints;

Continued

fingerprint fees, which are proposed to be deleted, were superseded by the FINRA fingerprinting fees which were adopted in 2013.

Finally, the Exchange proposes to add a new title, ''Continuing Education Fee:'' and proposes to provide an introductory paragraph to those fees that states, ''The Continuing Education Fee will be assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to Exchange General 4, Section 1240. This fee is paid directly to FINRA.'' The incorrect citation to Rule 1120 is being removed from the current rule text.

The FINRA Web CRD Fees are user-based and there is no distinction in the cost incurred by FINRA if the user is a FINRA member or a Non-FINRA member. Accordingly, the proposed fees mirror those currently assessed by FINRA.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes it is reasonable to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 in accordance with an adjustment to FINRA's fees.[11] The Exchange's rule text will reflect the current registration rate that will be assessed by FINRA as of January 2, 2022. Additionally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees will bring greater transparency to its fees. Amending the title of the $45 fee to be more precise will provide greater transparency to this fee. Updating FINRA's fingerprint processing fees to reflect the current charges will bring greater transparency to these charges that are currently assessed and collected by FINRA. Also, referencing the rule which governs the Regulatory Element of the Continuing Education Requirements and, noting that the fee is paid directly to FINRA, will provide more information to members regarding the fees for Continuing Education. The proposed fees are identical to those adopted by FINRA for use of Web CRD for disclosure and the registration of FINRA members and their associated persons. These costs are borne by FINRA when a Non-FINRA member uses Web CRD.

The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 is equitable and not unfairly discriminatory as the amendment will reflect the current fee that will be assessed by FINRA to all members who require Form U4 filings as of January 2, 2022. Amending the title of the $45 fee to be more precise will provide greater transparency to this fee. Updating the fingerprint processing fees to reflect the current fees is equitable and not unfairly discriminatory as FINRA currently assesses these rates to all members. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal is also equitable and not unfairly discriminatory because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that its proposal to increase the $100 fee for each initial Form U4 filed for the registration of a representative or principal to $125 does not impose an undue burden on competition as the amendment will reflect the current fee that will be assessed by FINRA to all members who require Form U4 filings as of January 2, 2022. Amending the title of the $45 fee to be more precise will provide greater transparency to this fee. Updating the fingerprint processing fees to reflect the current fees does not impose an undue burden on competition as FINRA currently assesses these rates to all members. Finally, making clear that FINRA, on behalf of the Exchange, will bill and collect these fees and referencing the rule which governs the Continuing Education Requirements will bring greater transparency to FINRA's fees. Further, the proposal does not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2021–052 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

(5) $30 for processing and posting to the CRD system each set of fingerprint cards submitted in non-electronic format by the member to FINRA, plus any other charge that may be imposed by the United States Department of Justice for processing each set of fingerprints;

(6) $30 for processing and posting to the CRD system each set of fingerprint results and identifying information that has been processed through a self-regulatory organization other than FINRA; and

(8) $110 for the additional processing of each initial or amended Form BD that includes the initial reporting, amendment, or certification of one or more disclosure events or proceedings.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See* note 3 above.

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR–BX–2021–052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2021–052, and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25353 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93592; File No. SR–NYSENAT–2021–22]**

## Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update the Procedures for the Allocation of Cabinets and Power to Its Colocated Users

November 16, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 3, 2021, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update the procedures for the allocation of cabinets and power to its colocated Users. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

*1. Purpose*

The Exchange proposes to establish[4] procedures for the allocation of power to its co-located[5] Users.[6]

In December 2020, the Exchange established procedures for the allocation of cabinets in colocation should it become needed.[7] In April 2021, the Exchange added procedures for the allocation of power in colocation (together with the cabinet procedures, the ''Existing Procedures'').[8]

Proposed Changes to the Waitlist Procedures

Pursuant to the Existing Procedures, a Combined Waitlist is currently in effect. To be placed on the Combined Waitlist, a User must submit an order that complies with the Combined Limits—that is, the order must be for no more than 32 kW, and no more than four dedicated cabinets with standard power allocations of 4 kW or 8 kW as part of the 32 kW total.[9]

The Existing Procedures provide that ''[a] User may only have one order for new cabinets and/or additional power on the Combined Waitlist at a time . . . .''[10] The Exchange has become aware that some Users are attempting to circumvent this provision by submitting additional orders in the names of entities affiliated with the User.[11]

The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Such actions by Users could result in a distribution of

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission notes that the Exchange proposes to update previously established procedures for allocation of cabinets and power to its colocated Users.

[5] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2018. *See* Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR–NYSENAT–2018–07).

[6] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id.,* at note 9. As specified in the Exchange's Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–66; SR–NYSEAMER–2021–42; SR–NYSEArca–2021–96; SR–NYSECHX–2021–16.

[7] *See* Securities Exchange Act Release No. 90732 (December 18, 2020), 85 FR 84443 (December 28, 2020) (SR–NYSE–2020–73, SR–NYSEAMER–2020–66, SR–NYSEArca–2020–82, SR–NYSECHX–2020–26, and SR–NYSENAT–2020–28).

[8] *See* Securities Exchange Act Release No. 91515 (April 8, 2021), 86 FR 19674 (April 14, 2021) (SR–NYSE–2021–12, SR–NYSEAMER–2021–08, SRNYSENAT–2021–03, SR–NYSEArca–2021–11, and SR–NYSECHX–2021–02). The Existing Procedures are set forth in General Notes 7 and 8 under ''Co-location Fees'' in the Fee Schedule.

[9] *See* Fee Schedule, Co-Location Fees, General Notes 7 and 8.

[10] *See* Fee Schedule, Co-Location Fees, General Note 8(b).

[11] For example, a User that wants 64 kW could submit an order for 32 kW to the Combined Waitlist, and then have an affiliated entity submit a second order to the Combined Waitlist for an additional 32 kW. Once the affiliated entity obtained its 32 kW, it could assign the power to the User. As a result, the User would obtain two times more power than the Combined Limit would allow. The Exchange has been informed that at least one User has contemplated utilizing affiliates for this purpose.

cabinets and power that is contrary to the intent of the Cabinet Limits and Combined Limits, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more cabinets and power than the Cabinet Limits and Combined Limits allow, to the detriment of other Users seeking to purchase cabinets or power.

To address this issue, the Exchange proposes to amend the Existing Procedures to add to General Note 8(b) that ''[w]hile a User is on the Combined Waitlist, no Affiliate of such User may also be on the Combined Waitlist.'' The Exchange similarly proposes to amend General Note 8(a), regarding the Cabinet Waitlist, to provide that ''[w]hile a User is on the Cabinet Waitlist, no Affiliate of such User may also be on the Cabinet Waitlist.'' The term ''Affiliate'' is already defined in the Co-Location Fees section of the Fee Schedule as follows: ''An 'Affiliate' of a User is any other User or Hosted Customer that is under 50% or greater common ownership or control of the first User.'' This definition of ''Affiliate'' was introduced in connection with the Exchange's filing regarding partial cabinet solutions, and the Exchange believes that the definition is appropriate to also use in the present context.[12]

Proposed Changes to the Purchasing Limit Procedures

The Exchange also proposes to amend the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 to prevent Users from circumventing the Cabinet Limits and Combined Limits in a similar fashion when they are in effect but a waitlist is not. The Existing Procedures provide that when the Cabinet Limit or Combined Limits are in effect, a User will have to wait 30 days from the date of the User's signed order before purchasing cabinets or power again. The Exchange proposes to amend such provisions to specify that this 30-day limitation applies not just to Users that have already purchased cabinets or power subject to the applicable Purchasing Limit, but also to any Affiliate of such User, so long as the applicable Purchasing Limit remains in effect.

General

The proposed rule change would apply the same way to all types and sizes of market participants. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users. The proposed change is not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and with Section 6(b)(5),[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would prevent a User from obtaining a greater share of cabinets and power than the Existing Procedures intended, and thereby facilitate a more equitable distribution of cabinets and power.

As noted above, the Exchange has become aware that some Users are attempting to circumvent the Combined Waitlist by submitting additional orders in the names of entities affiliated with the User, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Combined Waitlist at the same time. The Exchange believes that such actions by Users are contrary to the objectives of the Existing Procedures, which were intended to foreclose Users from obtaining a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. Unless prohibited, such actions by Users could result in an inequitable distribution of cabinets and power, with Users that are willing to submit multiple orders in the names of their affiliates obtaining more than their intended share of cabinets and power, to the detriment of other Users seeking to purchase cabinets and power. The proposed rule change to General Note 8 would address this concern.

The Exchange believes that the proposed amendments to the Existing Procedures regarding Cabinet and Power Purchasing Limits in General Note 7 would similarly prevent Users from circumventing the Cabinet Limits and Combined Limits when there is no waitlist in effect. The Exchange believes that having both Users and their Affiliates wait 30 days from the date of the signed order to purchase new cabinets or power would foreclose Users' ability to use their Affiliates to obtain a greater portion of the cabinets and power available. In this way, the Exchange believes that that the proposed amendments to General Note 7 would prevent fraudulent and manipulative acts and practices, and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The proposed rule change would not unfairly discriminate between or among market participants, as it would apply to all types and sizes of market participants equally.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[15] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to prevent Users from obtaining an unfair competitive advantage by submitting multiple orders in the names of affiliated entities, in order to avoid the Existing Procedures' prohibition against a User having more than one order on the Cabinet Waitlist or the Combined Waitlist at the same time and to obtain a greater portion of the cabinets and power available than the portion defined by the Cabinet Limits and Combined Limits. The proposed rule change would prevent a User from obtaining this unfair competitive advantage, thereby facilitating a more equitable distribution of cabinets and power.

[12] To the extent that the Combined Waitlist currently includes orders submitted by two or more Users that are Affiliates, the Exchange intends to remove all but the first of such Affiliates' orders from the Combined Waitlist upon this proposed rule change becoming operative.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that implementing the proposed rule change as soon as possible would allow the Exchange to prevent Users from unfairly obtaining more cabinets or power than the Existing Procedures were intended to provide. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[21]

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2021–22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSENAT–2021–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2021–22 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25358 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93580; File No. SR–NASDAQ–2021–089]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Retire Certain Order Entry Protocols and Related Fees, at Equity 7, Section 115

November 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 4, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend the Exchange's transaction [sic] credits and charges at Equity 7, Section 115, as described further below. The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposal is for the Exchange to discontinue the following order entry protocols: (i) QIX OTCBB,[3] effective as of November 8, 2021; (ii) CTCI[4] (except for CTCI MFUND, which will remain active), effective as of November 22, 2021; and (iii) BRUT FIX and SUMO FIX, effective as of November 22, 2021. The Exchange also proposes to amend Equity 7, Section 115 of the Exchange's Rules to reflect the retirement of these protocols and their related fees.

In Equity 7, Section 115(a), the Exchange proposes to delete references to two QIX-related fees that relate to QIX OTCBB: (i) A $1,200/port/month fee for a FINRA trading port (plus optional proprietary quote information port); and (ii) a $1,000/port/month fee for a FINRA unsolicited message port.[5] The Exchange proposes to delete these fees because QIX OTCBB is used for interacting with the FINRA OTCBB platform, which FINRA plans to decommission, effective November 5, 2021.[6] Nasdaq has provided prior notice of the pending retirement of QIX OTCBB.[7] As of the date of this filing, less than 20 QIX OTCBB ports (FINRA trading ports, at $1,200 per port per month) remain active, such that the impact of the proposal to discontinue offering QIX OTCBB will have little practical effect. The availability of Nasdaq's proprietary QIX trading ports and disaster recovery ports will be unaffected by this proposal as QIX will continue to be available for use in sending orders and receiving messages from Nasdaq (at no charge).

The Exchange proposes to discontinue the CTCI/TCP and CTCI/MQ protocols for communicating trade information to the FINRA/Nasdaq TRF Carteret and trade and order information to ACES[8] because it plans to replace these protocols with the FIX (FIX Port for services other than Trading and FIX Trading Port, respectively) order entry protocol, going forward. Again, Nasdaq[9] has provided prior notice to market participants of the impending transition from CTCI/TCP and CTCI/MQ to FIX. As of the date of this filing, less than 15 CTCI/TCP and CTCI/MQ ports remain active, such that the impact of the proposal to discontinue offering CTCI/TCP & CTCI/MQ will have little practical effect. The Exchange has already transitioned most other subscribers to FIX. Going forward, the Exchange proposes to continue to offer CTCI for use by participants in the Nasdaq Fund Network[10] (''CTCI MFUND''), due to the fact that FIX does not provide the capabilities that these participants require for use with the Nasdaq Fund Network. The Exchange proposes to amend Equity 7, Section 115(c), to specify that going forward, fees relating to CTCI will be limited to CTCI MFUND.

Finally, the Exchange proposes to discontinue offering BRUT FIX and SUMO FIX, as these are older varieties of the FIX order entry protocol that are legacies of prior application acquisitions and are now obsolete as their specifications have been integrated into the standard FIX protocol specification and the standard Nasdaq INET applications. Going forward, market participants that utilize BRUT FIX and SUMO FIX will be required to utilize FIX Trading Ports instead at the same price per port per month. Given that only a small number of market participants continue to use BRUT FIX and SUMO FIX ports, Nasdaq contacted these participants directly, as early as December 2020, to inform them of the impending transition. As of the date of this filing, only three ports remain, none which are in active use. Thus, the impact of the proposal to discontinue offering BRUT FIX and SUMO FIX will have little or no practical effect.

2. Statutory Basis

The Exchange believes that its proposals are consistent with Section 6(b) of the Act,[11] in general, and further the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposals are also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Exchange believes that its proposals to discontinue offering the QIX OTCBB, CTCI/TCP, CTCI/MQ, BRUT FIX, and SUMO FIX order entry protocols and to delete related fees are reasonable. In the case of QIX OTCBB, the proposal is reasonable given that FINRA plans to decommission the OTCBB platform to which market

[3] The QIX Order entry protocol is a Nasdaq proprietary protocol that allows automated, real-time trading. *See https://www.nasdaqtrader.com/Trader.aspx?id=qix.* QIX OTCBB, in particular, is utilized to enter orders on FINRA's Over the Counter Bulletin Board (''OTCBB'') platform.

[4] The Computer-to-Computer Interface (''CTCI'') is a method by which Nasdaq subscribers can enter transactions, such as Nasdaq Market Center orders and trade reports, from their computer systems to Nasdaq's computer systems without using a Nasdaq Workstation. *See https://www.nasdaqtrader.com/Trader.aspx?id=ctci.* In this instance, the Exchange proposes to discontinue use of two varieties of CTCI—CTCI/TCP and CTCI/MQ that are used for the FINRA/Nasdaq Trade Reporting Facility Carteret (''FINRA/Nasdaq TRF Carteret'') and ACES. As is discussed below, participants will use the FIX order entry protocol with the FINRA/Nasdaq TRF Carteret and ACES, on a going-forward basis.

[5] An ''unsolicited message port'' is used to separate the message traffic for FINRA exceptions which are no longer applicable due to rule changes. There are no active users or configured ports under this category.

[6] *See https://www.finra.org/filing-reporting/market-transparency-reporting/reminder-upcoming-retirement-otc-bulletin-board-otcbb; https://www.finra.org/filing-reporting/market-transparency-reporting/upcoming-retirement-otc-bulletin-board-otcbb. See also* FINRA Regulatory Notice 21–28 (August 6, 2021), available at *https://www.finra.org/sites/default/files/2021-08/Regulatory-Notice-21-28.pdf.*

[7] *See* Nasdaq Equity Trader Alert 2020–28 Regulatory Notice 21–28 (August 6, 2021), available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2020-28 [sic].*

[8] ACES is an order routing system that allows user to route orders between order-entry firms and market makers that have established relationships. *See http://nasdaqtrader.com/Trader.aspx?id=ACES.* The Exchange notes that when customers transition from CTCI to FIX for purposes of communicating with ACES or the FINRA/Nasdaq TRF Carteret, they will realize a cost savings of $25 per port per month and $75 [sic] per port per month, respectively.

[9] *See* Nasdaq Equity Trader Alert 2021–80 (October 14, 2021), available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=%20ETA2021-80;* Nasdaq Equity Trader Alert 2021–59 (August 9, 2021), available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2021-59;* Nasdaq Equity Trader Alert 2021–18 (March 11, 2021), available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2021-18;* Nasdaq Equity Trader Alert 2020–28 (May 21, 2020), available at *http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2020-28.*

[10] The Nasdaq Fund Network facilitates the collection and dissemination of performance NAV, valuation, and strategy-level reference data for over 35,000 investable products. *See https://www.nasdaq.com/solutions/nasdaq-fund-network.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

participants use QIX OTCBB to connect, such that after this decommissioning, there will be no further basis for offering or charging fees for use of QIX OTCBB ports. The other proposals, to discontinue offering and charging fees for ports using the CTCI/TCP, CTCI/MQ, BRUT FIX, and SUMO FIX order entry protocols are reasonable because these order entry protocols are associated with legacy applications and have become obsolete and the Exchange wishes to transition market participants to the newer and more capable FIX order entry protocol. The Exchange proposes to continue offering and charging fees for the CTCI MFUND order entry protocol because customers that utilize it cannot currently attain their existing functionality through the use of FIX.

The Exchange believes that it is an equitable allocation of its fees to cease charging customers for ports that connect to discontinued platforms or that use order entry protocols that have become obsolete and will be replaced with newer and more capable protocols.

The proposals are not unfairly discriminatory to existing users of the order entry protocols that the Exchange will eliminate. The Exchange continually invests in new technologies to serve its customers' growing and evolving needs. At the same time it deploys new technologies, the Exchange must also periodically cease to support, or retire, technologies that have become obsolete and are no longer widely used. To mitigate the effect of transitions to new technologies in this instance, the Exchange has provided ample prior notice to market participants and has assisted them in the transition process. As of the date of this filing, Nasdaq has already transitioned most of its customers from CTCI/TCP, CTCI/MQ, BRUT FIX, and SUMO FIX to using the FIX order entry protocol, such that the proposals will little to no practical impact on them. Given that FINRA plans to decommission OTCBB, Nasdaq's proposal to eliminate QIX OTCBB should have no effect on them.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that its proposed rule changes will impose any burden on competition. Again, the proposals to eliminate the QIX OTCBB order entry protocol will merely help to effectuate FINRA's elimination of the OTCBB platform, while the proposed elimination of the CTCI/TCP, CTCI/MQ, BRUT FIX, and SUMO FIX order entry protocols will serve to transition market participants to a newer and more capable alternative to these protocols. Participants should suffer no adverse competitive impact from the elimination of these order entry protocols.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2021–089 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number *SR–NASDAQ–2021–089.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–089 and should be submitted on or before December 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25346 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a public meeting on Thursday, December 2, 2021. The meeting will begin at 10:00 a.m. (ET) and will be open to the public.

**PLACE:** The meeting will be conducted by remote means and/or at the Commission's headquarters, 100 F St. NE, Washington, DC 20549. Members of the public may watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

**STATUS:** This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting. On November 15, 2021, the Commission published notice of the Committee meeting (Release Nos. 33–11007; 34–93573), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee.

**MATTER TO BE CONSIDERED:** The agenda for the meeting includes: Opening remarks, announcement of new officers, and announcement regarding a disclosure subcommittee; welcome remarks; approval of previous meeting minutes; a panel discussion regarding crypto and digital assets: Helping to ensure investor protection and market integrity in the face of new technologies; a panel discussion regarding the SEC's potential role in addressing elder financial abuse issues; a discussion of a recommendation regarding individual retirement accounts; subcommittee reports; and a non-public administrative session.

**CONTACT PERSON FOR MORE INFORMATION:** For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

*Authority:* 5 U.S.C. 552b.

Dated: November 18, 2021.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2021–25544 Filed 11–18–21; 11:15 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–93581; File No. SR–ICC–2021–019]**

## Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC CDS Instrument On-Boarding Policies and Procedures

November 16, 2021.

### I. Introduction

On September 22, 2021, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4,[2] a proposed rule change to revise the ICC CDS Instrument On-boarding Policies and Procedures (''Instrument On-boarding Policy''). The proposed rule change was published for comment in the **Federal Register** on October 5, 2021.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

### II. Description of the Proposed Rule Change

The proposed rule change would revise Subsection III.A of the Instrument On-boarding Policy.[4] Subsection III.A discusses the guiding principles that ICC maintains for considering instruments for clearing. Such principles are designed to ensure that ICC proceeds in a prudent manner with respect to instrument selection while also providing the best opportunity for Clearing Participants to minimize their risk.

The proposed rule change would incorporate an additional guiding principle—ICC should consider selecting for clearing instruments that are constituents of the currently clearable On-The-Run (''OTR'') indices in order to provide additional instruments for Clearing Participants to hedge and mitigate indirect risk exposure from the OTR indices. For other instruments that are not constituents of currently clearable OTR indices, the proposed rule change would not alter the current guiding principles, which direct ICC to consider instrument open interest and volume when selecting instruments for clearing. Moreover, the proposed rule change would not alter the overall current guiding principles for all instruments, which direct ICC to consider selecting for clearing instruments that can be cleared through ICC's systems and processes and that support industry-wide initiatives and protocols.

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[5] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act and Rule 17Ad–22(e)(21).[6]

#### *A. Consistency With Section 17A(b)(3)(F) of the Act*

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.[7] As discussed above, the proposed rule change would add to the Instrument On-boarding Policy, as a further guiding principle, that ICC should consider selecting for clearing instruments that are constituents of the currently clearable OTR indices in order to provide Clearing Participants additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. The Commission believes that this additional guiding principle should encourage ICC to select for clearing instruments that, as constituents of the currently clearable OTR indices, could help ICC's Clearing Participants mitigate indirect risk exposure from the OTR indices. The Commission believes that such potential risk mitigation would encourage Clearing Participants to centrally clear additional transactions, which, in turn, should promote the prompt and accurate clearance and settlement of those instruments.

Moreover, as set forth in the new guiding principle, the Commission believes that clearing instruments that are constituents of the currently clearable OTR indices could allow ICC's Clearing Participants to hedge and mitigate indirect risk exposure from the OTR indices. Thus, assuming that ICC selects such instruments for clearing, the Commission believes that the new guiding principle could result in ICC's Clearing Participants mitigating their overall indirect risk exposure to OTR indices, and thereby could reduce the overall risks to ICC in clearing and settling transactions in OTR indices. The Commission further believes that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC CDS Instrument On-boarding Policies and Procedures; Exchange Act Release No. 93177 (Sept. 29, 2021); 86 FR 55037 (Oct. 5, 2021) (SR–ICC–2021–019) (''Notice'').

[4] Capitalized terms not otherwise defined herein have the meanings assigned to them in the Instrument On-boarding Policy or the ICC Rules, as applicable.

[5] 15 U.S.C. 78s(b)(2)(C).

[6] 15 U.S.C. 78q–1(b)(3)(F) and 17 CFR 240.17Ad–22(e)(21).

[7] 15 U.S.C. 78q–1(b)(3)(F).

these risks, if not adequately managed, could disrupt ICC's ability to clear and settle transactions in other products and safeguard securities and funds in its custody and control. Thus the Commission believes that, in directing ICC to select for clearing instruments that could allow Clearing Participants to hedge and mitigate their overall risk exposure, the proposed rule change could, in turn, result in a reduction of risk to ICC and thereby could help promote the prompt and accurate clearance and settlement of securities transactions and help assure the safeguarding of securities and funds in ICC's custody and control.

Therefore, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC's custody and control, consistent with the Section 17A(b)(3)(F) of the Act.[8]

*B. Consistency With Rule 17Ad–22(e)(21)*

Rule 17Ad–22(e)(21) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, be efficient and effective in meeting the requirements of its participants and the markets it serves.[9] As discussed above, the proposed rule change would add to the Instrument On-boarding Policy, as a further guiding principle, that ICC should consider selecting for clearing instruments that are constituents of the currently clearable OTR indices in order to provide Clearing Participants additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. The Commission believes that this additional guiding principle should encourage ICC to select for clearing additional instruments that would serve the needs of its Clearing Participants in hedging and mitigating indirect risk exposure from the OTR indices. The Commission therefore believes this new guiding principle could help ICC to be effective in meeting the requirements of its participants, consistent with Rule 17Ad–22(e)(21).[10]

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[11] and Rule 17Ad–22(e)(21).[12]

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act[13] that the proposed rule change (SR–ICC–2021–019) be, and hereby is, approved.[14]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–25348 Filed 11–19–21; 8:45 am]

**BILLING CODE 8011–01–P**

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(21).

[10] 17 CFR 240.17Ad–22(e)(21).

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(e)(21).

[13] 15 U.S.C. 78s(b)(2).

[14] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2021–0493]**

### Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 8, 2021. The collection involves regulations that prescribe the requirements governing air carrier operations. The information collected is necessary to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification.

**DATES:** Written comments should be submitted by December 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Sandra Ray by email at: *Sandra.ray@faa.gov;* phone: 412–329–3088.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

*OMB Control Number:* 2120–0008.

*Title:* Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations.

*Form Numbers:* None.

*Type of Review:* Renewal of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 8, 2021 (86 FR 30513). Under the authority of Title 49 CFR, section 44701, title 14 CFR prescribes the terms, conditions, and limitations as are necessary to ensure safety in air transportation. Title 14 CFR part 121 prescribes the requirements governing air carrier operations. The information collected is used to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification. Each operator which seeks to obtain, or is in possession of an air carrier operating certificate, must comply with the requirements of part 121 which include maintaining data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

*Respondents:* 66 Part 121 Air Carriers.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* Varies per Response and Requirement type.

*Estimated Total Annual Burden:* 1,455,260 Hours.

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

**Sandra L. Ray,**

*Aviation Safety Inspector, AFS–260.*

[FR Doc. 2021–25427 Filed 11–19–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aviation Rulemaking Advisory Committee; Meeting

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

**ACTION:** Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

**SUMMARY:** This notice announces a meeting of the ARAC.

**DATES:** The meeting will be held on Thursday, December 9, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Standard Time.

Requests to attend the meeting must be received by Monday, November 29, 2021.

Requests for accommodations to a disability must be received by Monday, November 29, 2021.

Requests to submit written materials to be reviewed during the meeting must be received no later than Monday, November 29, 2021.

**ADDRESSES:** The meeting will be held virtually. Members of the public who wish to observe the meeting must RSVP by emailing *9-awa-arac@faa.gov.* General committee information including copies of the meeting minutes will be available on the FAA Committee website at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/.*

**FOR FURTHER INFORMATION CONTACT:** Lakisha Pearson, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–4191; fax (202) 267–5075; email *9-awa-arac@faa.gov.* Any committee-related request should be sent to the person listed in this section.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The ARAC was created under the Federal Advisory Committee Act (FACA), in accordance with Title 5 of the United States Code (5 U.S.C. App. 2) to provide advice and recommendations to the FAA concerning rulemaking activities, such as aircraft operations, airman and air agency certification, airworthiness standards and certification, airports, maintenance, noise, and training.

#### II. Agenda

At the meeting, the agenda will cover the following topics:

- Status Report from the FAA
- Status Updates:
  - Active Working Groups
  - Transport Airplane and Engine (TAE) Subcommittee
- Recommendation Reports
- Any Other Business

Detailed agenda information will be posted on the FAA Committee website address listed in the **ADDRESSES** section at least one week in advance of the meeting.

#### III. Public Participation

This virtual meeting will be open to the public on a first-come, first-served basis. Members of the public who wish to attend are asked to register via email by submitting the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation, to the email listed in the **ADDRESSES** section. When registration is confirmed, registrants will be provided the virtual meeting information/teleconference call-in number and passcode. Callers are responsible for paying associated long-distance charges.

The U.S. Department of Transportation is committed to providing equal access to this meeting 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 is not accepting oral presentations at this meeting due to time constraints. Any member of the public may present a written statement to the committee at any time. The public may present written statements to ARAC by providing a copy to the Designated Federal Officer via the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Timothy R. Adams,**

*Acting Executive Director, Office of Rulemaking.*

[FR Doc. 2021–25325 Filed 11–19–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Safety Oversight and Certification Advisory Committee; Meeting

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

**ACTION:** Notice of Safety Oversight and Certification Advisory Committee (SOCAC) meeting.

**SUMMARY:** This notice announces a meeting of the SOCAC.

**DATES:** The meeting will be held on December 8, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time.

Requests to attend the meeting must be received by Monday, November 29, 2021.

Requests for accommodations to a disability must be received by Monday, November 29, 2021.

Requests to submit written materials to be reviewed during the meeting must be received no later than Monday, November 29, 2021.

**ADDRESSES:** The meeting will be held virtually. Members of the public who wish to observe the meeting must RSVP by emailing *9-awa-arm-socac@faa.gov.* Information on the committee and copies of the meeting minutes will be available on the FAA Committee website at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Aliah Duckett, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–8361; email *9-awa-arm-socac@faa.gov.* Any committee-related request should be sent to the person listed in this section.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The SOCAC was created under the Federal Advisory Committee Act (FACA), in accordance with the FAA Reauthorization Act of 2018, Pub. L. 115–254, to provide advice to the Secretary on policy-level issues facing the aviation community that are related to FAA safety oversight and certification programs and activities.

#### II. Agenda

At the meeting, the agenda will cover the following topics:

- Review and Acceptance of September 22, 2021, Meeting Minutes
- Subcommittee Report
- FAA Updates

Additional information will be posted on the committee's website listed in the **ADDRESSES** section at least one week in advance of the meeting.

#### III. Public Participation

The meeting will be open to the public on a first-come, first served basis, as space is limited. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Please provide the following information: Full legal name, country of citizenship, and name of your industry association or applicable affiliation. The FAA will email registrants the meeting access information in a timely manner prior to the meeting.

The U.S. Department of Transportation is committed to providing equal access to this meeting 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 is not accepting oral presentations at this meeting due to time constraints. Any member of the public may present a written statement to the committee at any time by providing a copy to the Designated Federal Officer via the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC.

**Timothy R. Adams,**

*Acting Executive Director, Office of Rulemaking.*

[FR Doc. 2021–25391 Filed 11–19–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on the Interstate-11 (I–11), Nogales to Wickenburg, in Santa Cruz, Pima, Pinal, Maricopa and Yavapai Counties, AZ

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of limitation on claims for Judicial Review of Actions by FHWA and other federal agencies.

**SUMMARY:** This notice announces actions taken by FHWA that are final. The actions relate to the Tier 1 Environmental Impact Statement (EIS) and Record of Decision (ROD) for the Interstate-11 (I–11), Nogales to Wickenburg, in Santa Cruz, Pima, Pinal, Maricopa and Yavapai Counties, AZ. The actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions with authority on the highway project will be barred unless the claim is filed on or before April 21, 2022. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Mr. Aryan Lirange, Senior Urban Engineer, Federal Highway Administration, 4000 N Central Avenue, Suite 1500, Phoenix, Arizona 85012; telephone: (602) 382–8973 email: *Aryan.lirange@dot.gov.* The FHWA Arizona Division normal business hours are 7:30 a.m. to 4 p.m. (Mountain Standard Time).

You may also contact: Ms. Rebecca Yedlin, Environmental Coordinator, Federal Highway Administration, 4000 N Central Avenue, Suite 1500, Phoenix, Arizona 85012; telephone: (602) 382–8979, email: *Rebecca.yedlin@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following project in the State of Arizona: I–11, Nogales to Wickenburg. The actions by FHWA and other relevant Federal agencies and the laws under which such actions were taken, are described in the Tier 1 Draft EIS approved on March 19, 2019, Tier 1 Final Tier 1 EIS approved on June, 24, 2021, in the ROD issued on November 15, 2021, and in other documents in the project file. Project decision documents are available online at: *http://www.i11study.com/Arizona/.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to: National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act [23 U.S.C. 101 *et seq.*]; Clean Air Act [42 U.S.C. 7401 *et seq.*]; Section 4(f) of the US Department of Transportation Act of 1966 [49 U.S.C. 303, 23 U.S.C. 138]; Endangered Species Act [16 U.S.C. 1531–1544, 1536]; Migratory Bird Treaty Act [16 U.S.C. 703–712]; The National Historic Preservation Act of 1966, [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act [16 U.S.C. 16 U.S.C. 470aa–mm]; Archeological and Historic Preservation Act [16 U.S.C. 469]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013]; Title VI of Civil Rights Act [42 U.S.C. 2000d *et seq.*]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201 *et seq.*]; Clean Water Act [33 U.S.C. 1251 *et seq.*]; E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

*Authority:* 23 U.S.C. 139(*l*)(1).

Issued on: November 16, 2021.

**Karla S. Petty,**

*Arizona Division Administrator, Phoenix, Arizona.*

[FR Doc. 2021–25363 Filed 11–19–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0383; FMCSA–2014–0385; FMCSA–2014–0387; FMCSA–2015–0328; FMCSA–2018–0137; FMCSA–2018–0139; FMCSA–2019–0109; FMCSA–2019–0110]**

### Qualification of Drivers; Exemption Applications; Hearing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 16 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on November 19, 2021. The exemptions expire on November 19, 2023. Comments must be received on or before December 22, 2021.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0383, Docket No. FMCSA–2014–0385, Docket No. FMCSA–2014–0387, Docket No. FMCSA–2015–0328, Docket No. FMCSA–2018–0137, Docket No. FMCSA–2018–0139, Docket No. FMCSA–2019–0109, or Docket No. FMCSA–2019–0110 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2014–0383, FMCSA–2014–0385, FMCSA–2014–0387, FMCSA–2015–0328, FMCSA–2018–0137, FMCSA–2018–0139, FMCSA–2019–0109, or FMCSA–2019–0110 in the keyword box, and click ''Search.''

Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

### *A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2014–0383, Docket No. FMCSA–2014–0385, Docket No. FMCSA–2014–0387, Docket No. FMCSA–2015–0328, Docket No. FMCSA–2018–0137, Docket No. FMCSA–2018–0139, Docket No. FMCSA–2019–0109, or Docket No. FMCSA–2019–0110), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number, FMCSA–2014–0383, FMCSA–2014–0385, FMCSA–2014–0387, FMCSA–2015–0328, FMCSA–2018–0137, FMCSA–2018–0139, FMCSA–2019–0109, or FMCSA–2019–0110 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

### *B. Viewing Comments*

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2014–0383, FMCSA–2014–0385, FMCSA–2014–0387, FMCSA–2015–0328, FMCSA–2018–0137, FMCSA–2018–0139, FMCSA–2019–0109, or FMCSA–2019–0110 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

### *C. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

## II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 3, 1971).

The 16 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

## III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

## IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 16 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 16 drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency

reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of November 19, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 16 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Carlos Arellano (CA)
Jeffrey Barbuto (NH)
John Fazio (FL)
Debbie Gaskill (GA)
Derek Hawkins (NH)
Emil Iontchev (IL)
Justin Kilgore (FL)
Danny McGowan (WV)
Matthew Moore (TX)
Abdiwahab Olow (MN)
Tami Richardson-Nelson (NE)
Willis Ryan (GA)
Anthony Saive (TN)
Dustin Selby (OH)
Jennifer Valentine (TX)
Derron Washington (IL)

The drivers were included in docket number FMCSA–2014–0383, FMCSA–2014–0385, FMCSA–2014–0387, FMCSA–2015–0328, FMCSA–2018–0137, FMCSA–2018–0139, FMCSA–2019–0109, or FMCSA–2019–0110. Their exemptions were applicable as of November 19, 2021 and will expire on November 19, 2023.

## V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the 16 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021–25378 Filed 11–19–21; 8:45 am]

**BILLING CODE 4910–EX–P**

# DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, 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 placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Andrea Gacki, Director, tel.: 202–622–2490; 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 Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

### Notice of OFAC Actions

On November 15, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

### Individuals

1. MONTENEGRO ESPINOZA, Luis Angel, Planes De Puntaldia Casa #16, Managua, Nicaragua; DOB 01 Jan 1949; POB Esteli, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 1610101490000S (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of Executive Order 13851 of November 27, 2018, ''Blocking Property of Certain Persons Contributing to the Situation in Nicaragua,'' 83 FR 61505 (''E.O. 13851''), for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

2. ZELEDON ROCHA, Sadrach, Matagalpa, Nicaragua; DOB 08 Feb 1954; POB Nicaragua; nationality Nicaragua; Gender Male; Passport C759398 (Nicaragua); National ID No. 09058016 (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

3. CENTENO RIVERA, Leonidas Nicolas, Jinotega, Nicaragua; DOB 06 Dec 1958; POB Nicaragua; nationality Nicaragua; Gender Male; National ID No. 2430612580000C (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

4. VALENZUELA BLANDON, Francisco Ramon, Esteli, Nicaragua; DOB 12 Dec 1963; POB Esteli, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 1611212630005S (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

5. CHAVARRIA MONTENEGRO, Jose Adrian, Residencial Monte Cielo, Casa #C 152, Managua, Nicaragua; DOB 08 Sep 1955; POB Jinotega, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 2410809550003W (Nicaragua); Diplomatic Passport A00001069 (Nicaragua) issued 06 Aug 2015 expires 06 Aug 2025 (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

6. LOPEZ GUTIERREZ, Rodolfo Francisco, Residencial El Dorado #125, Managua,

Nicaragua; DOB 03 Oct 1953; POB Jinotega, Nicaragua; nationality Nicaragua; Gender Male; Passport C01190809 (Nicaragua) issued 02 Mar 2012 expires 02 Mar 2022; National ID No. 2410310530001B (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

7. CASTANEDA MENDEZ, Jose Antonio, Residencial Monte Cielo, Casa B 102, Nindiri, Nicaragua; DOB 19 Nov 1963; POB Managua, Nicaragua; nationality Nicaragua; Gender Male; Passport C01252526 (Nicaragua) issued 21 Jun 2012 expires 21 Jun 2022; National ID No. 0011911630053V (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

8. FARRARA LASHTAR, Mohamed Mohamed (a.k.a. FERRARA LASHTAR, Mohamed Mohamed; a.k.a. FERRARA LASHTAR, Mohammed Mohammed), Residencial Las Colinas, Calle de los Cerros, Casa 330, Managua, Nicaragua; DOB 17 May 1959; nationality Nicaragua; citizen Nicaragua; Gender Male; Passport C1102007 (Nicaragua); alt. Passport NG252351 (Libya); National ID No. 7771705590000M (Nicaragua); Diplomatic Passport A00000271 (Nicaragua) issued 12 Sep 2012 expires 12 Sep 2022 (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

9. MANSELL CASTRILLO, Salvador, De Los Pipitos, 200 Mts. Al Oeste Bolonia, Managua, Nicaragua; DOB 13 Dec 1955; POB Matagalpa, Nicaragua; nationality Nicaragua; Gender Male; National ID No. 4411312550001D (Nicaragua); Diplomatic Passport A00000656D (Nicaragua) issued 09 Aug 2013 expires 09 Aug 2023 (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851, for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

**Entity**

1. MINISTERIO PUBLICO DE NICARAGUA, Km 4 Carretera a Masaya, Managua, Nicaragua; website *https://ministeriopublico.gob.ni/;* Target Type Government Entity [NICARAGUA] [NICARAGUA–NHRAA].

Designated pursuant to section 1(a)(i)(B) of E.O. 13851, for being responsible for or complicit in, or having directly or indirectly engaged or attempted to engage in, actions or policies that undermine democratic processes or institutions in Nicaragua.

Designated pursuant to section 5(a)(1) of the Nicaragua Human Rights and Anticorruption Act of 2018 (NHRAA) for being responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or having knowingly participated in, directly or indirectly, significant actions or policies that undermine democratic processes or institutions, in or in relation to Nicaragua on or after April 18, 2018.

Dated: November 15, 2021.

**Bradley T. Smith,**

*Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

[FR Doc. 2021–25441 Filed 11–19–21; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

**AGENCY:** Departmental Offices, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments must be received on or before December 22, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

**Internal Revenue Service (IRS)**

*1. Title:* Form W–8BEN—Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individual), Form W–8BEN–E—Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities), Form W–8ECI—Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States, Form W–8EXP—Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting, Form W–8IMY—Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting.

*OMB Control Number:* 1545–1621.

*Type of Review:* Extension of a currently approved collection.

*Description:* Form W–8BEN is used for certain types of income to establish that the person is a foreign person, is the beneficial owner of the income for which Form W–8BEN is being provided and, if applicable, to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Form W–8ECI is used to establish that the person is a foreign person and the beneficial owner of the income for which Form W–8ECI is being provided, and to claim that the income is effectively connected with the conduct of a trade or business within the United States. Form W–8EXP is used by a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, or foreign private foundation. The form is used by such persons to establish foreign status, to claim that the person is the beneficial owner of the income for which Form W–8EXP is given and, if applicable, to claim a reduced rate of, or exemption from, withholding. Form W–8IMY is provided to a withholding agent or payer by a foreign intermediary, foreign partnership, and certain U.S. branches to make representations regarding the status of beneficial owners or to transmit appropriate documentation to the withholding agent. Reg. 1.1441–1(e)(4)(iv) provides that a withholding agent may establish a system for a beneficial owner to electronically furnish a Form W–8 or an acceptable substitute Form W–8.

*Form Number:* W–8BEN, W–8BEN–E, W–8ECI, W–8EXP, and W–8IMY.

*Affected Public:* Businesses or other for-profit organizations; Individuals or Households; Not-for-profit institutions.

*Estimated Number of Respondents:* 3,390,640.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 3,390,640.

*Estimated Time per Response:* 7.18 hours to 26.45 hours.

*Estimated Total Annual Burden Hours:* 30,561,468.

*2. Title:* Performance & Quality for Small Wind Energy Property.

*OMB Control Number:* 1545–2259.

*Type of Review:* Extension of a currently approved collection.

*Description:* Section 48(a)(3)(D) of the Internal Revenue Code allows a credit for energy property which meets, among other requirements, the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and are in effect at the time of the acquisition of the property. Energy property includes small wind energy property. This notice provides the performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48.

*Revenue Procedure:* Notice 2015–4.

*Affected Public:* Individuals or Households; Businesses and other-for-profit institutions.

*Estimated Number of Respondents:* 160.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 160.

*Estimated Time per Response:* 2 hours 30 minutes.

*Estimated Total Annual Burden Hours:* 400.

*Authority:* 44 U.S.C. 3501 *et seq.*

Dated: November 17, 2021.

**Molly Stasko,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2021–25424 Filed 11–19–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Funding Opportunity Under Supportive Services for Veteran Families Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Funding Opportunity.

**SUMMARY:** The Department of Veterans Affairs (VA) is announcing the availability of funds for supportive services grants under the Supportive Services for Veteran Families (SSVF) Program. This Notice of Funding Opportunity (NOFO) contains information concerning the SSVF Program, the renewal and new applicant supportive services grant application processes, and the amount of funding available. Awards made for supportive services grants will fund operations beginning October 1, 2022.

**DATES:** Applications for supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Time on February 7, 2022. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other submission-related problems.

**ADDRESSES:**

*For a Copy of the Application Package:* Copies of the application can be downloaded from the SSVF website at *www.va.gov/homeless/ssvf.* Questions should be referred to the SSVF Program Office by email at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see part 62 of Title 38, Code of Federal Regulations (38 CFR part 62).

*Submission of Application Package:* Applicants must submit applications electronically following instructions found at *www.va.gov/homeless/ssvf.* Applications may not be mailed, hand carried or sent by facsimile (FAX). Applications must be received in the SSVF Program Office by 4:00 p.m. Eastern Time on the application deadline date. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. See Section II.B. and II.C. of this NOFO for maximum allowable grant amounts.

*Technical Assistance:* Information regarding how to obtain technical assistance with the preparation of a renewal supportive services grant application is available on the SSVF Program website at: *www.va.gov/HOMELESS/SSVF.*

**FOR FURTHER INFORMATION CONTACT:** Mr. John Kuhn, National Director, Supportive Services for Veteran Families, (727) 273–5619, or by email at *SSVF@va.gov.*

**SUPPLEMENTARY INFORMATION:**

*Funding Opportunity Title:* Supportive Services for Veteran Families Program.

*Announcement Type:* Initial.

*Funding Opportunity Number:* VA–SSVF–103121.

*Catalog of Federal Domestic Assistance Number:* 64.033, VA Supportive Services for Veteran Families Program.

### I. Funding Opportunity Description

*A. Purpose:* The SSVF Program's purpose is to provide supportive services grants to private non-profit organizations and consumer cooperatives, who will coordinate or provide supportive services to very low-income veteran families who:

(i) Are residing in permanent housing and at risk of becoming homeless; (ii) are homeless and scheduled to become residents of permanent housing within a specified time period; or (iii) after exiting permanent housing within a specified time period, are seeking other housing that is responsive to such very low-income veteran family's needs and preferences. SSVF prioritizes the delivery of rapid re-housing services to homeless veteran households.

Rapid re-housing is an intervention designed to help individuals and families quickly exit homelessness, return to housing in the community, and avoid homelessness again in the near term. The core components of a rapid re-housing program are housing identification, move-in and rent financial assistance, and rapid re-housing case management and services. These core components represent the minimum that a program must be providing to households to be considered a rapid re-housing program, but do not provide guidance for what constitutes an effective rapid re-housing program. Applicants should familiarize themselves with the Homelessness Prevention and Rapid Re-housing Best Practice Standards found at the following link: *https://www.va.gov/homeless/ssvf/?page=/ssvf_university/fidelity_tool_ssvf_standards.*

*B. Funding Priorities:* The principal goal for this NOFO is to provide support to those applicants who demonstrate the greatest capacity to end homelessness among veterans or, in communities that have already met U.S. Interagency Council on Homelessness (USICH) Federal Criteria and Benchmarks, sustain the gains made in ending homelessness among veterans. Priority will be given to grantees who can demonstrate adoption of evidence-based practices in their application. Under Priority 1, VA will provide funding to those existing grantees with 3-year accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) in Employment and Community Services: Rapid Rehousing and Homeless Prevention standards, a 4-year accreditation in Housing Stabilization and Community Living Services from the Council on Accreditation (COA), or a 3-year accreditation in The Joint Commission's (JC) Behavioral Health Care: Housing Support Services Standards. Priority 2 includes existing grantees not included in Priority 1 with annual awards, seeking to renew their grants. Priority 3 applications will be accepted from new applicants in the communities described in Section II.B.

*C. Definitions:* Part 62 of title 38, 38 CFR part 62, contains definitions of terms used in the SSVF Program. In addition to the definitions and requirements described in 38 CFR part 62, this NOFO provides further clarification in this paragraph on the use of Emergency Housing Assistance (EHA). EHA may be provided by the SSVF grantee under 38 CFR 62.34(f) to offer transition in place when a permanent housing voucher, such as is offered through the Department of Housing and Urban Development's (HUD) Section 8 program, is available from any source, but access to the permanent housing voucher is pending completion of the housing inspection and administrative processes necessary for leasing. In such circumstances, the EHA payment cannot exceed what would otherwise be paid when the voucher is utilized. EHA may also be used as part of a Rapid Resolution or diversion response that helps veteran households avoid entry into homelessness through placements with family or friends.

*D. Approach:* Respondents to this NOFO should base their proposals and applications on the current requirements of part 62. Grantees will be expected to leverage supportive services grant funds to enhance the housing stability of very low-income veteran families who are occupying permanent housing. In doing so, grantees are required to establish relationships with local community resources. Therefore, agencies must work through coordinated partnerships built either through formal agreements or the informal working relationships commonly found among successful social service providers.

As part of the application, all applicants are strongly encouraged to provide letters of support from the Continuums of Care (CoC) in the location where they plan to deliver services, reflecting the applicant's engagement in the CoC's efforts to coordinate services. A CoC is a community plan to organize and deliver housing and services to meet the needs of people who are homeless as they move to stable housing and maximize self-sufficiency. The CoC includes action steps to end homelessness and prevent a return to homelessness. CoC locations and contact information can be found at the following link: *https://www.hudexchange.info/grantees/contacts/?params=%7B%22limit%22%3A20%2C%22sort%22%3A%22%22%2C%22order%22%3A%22%22%2C%22years%22%3A%5B%5D%2C%22searchTerm%22%3A%22%22%2C%22grantees%22%3A%5B%5D%2C%22state%22%3A%22%22%2C%22programs%22%3A%5B3%5D%2C%22coc%22%3Atrue%7D##granteeSearch*.

The CoC's letter of support should note if the applicant is providing assistance to the CoC in creating local capacity to build Coordinated Entry Systems (CES) and the value and form of that assistance, whether support is direct funding or staffing. CES requires that providers operating within the CoC's geographic area must also work together to ensure the CoC's coordinated entry process allows for coordinated screening, assessment and referrals (HUD Notice: CPD–17–01). The CoC's letter of support should also describe the applicant's participation in the CoC's community planning efforts. Failure for a Priority 1 or 2 applicant to provide a letter of support from the CoC as described, will limit the maximum award to 90% of the award made in the previous fiscal year (as described in II.C.9). Failure for a Priority 3 applicant to provide a letter of support from the CoC as described will disqualify the applicant from funding consideration unless the applicant can demonstrate that the CoC is unable to provide such a letter for this application. In addition, any applicant proposing to serve an Indian tribal area is strongly encouraged to provide a letter of support from the relevant Indian tribal government.

The aim of the provision of supportive services is to assist very low-income veteran families residing in permanent housing to remain stably housed and to rapidly transition those not currently in permanent housing to stable housing. SSVF emphasizes the placement of homeless veteran families who are described in 38 CFR 62.11(b)–(c) as follows:

(b)(1) Is lacking a fixed, regular and adequate nighttime residence, meaning:

(i) That the veteran family's primary nighttime residence is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned bus or train station, airport or camping ground;

(ii) That the veteran family is living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by Federal, state or local government programs for low-income individuals); or

(iii) That the veteran family is exiting an institution where the veteran family resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) Are at risk to remain in the situation described in paragraph (b)(1) of this section but for the grantee's assistance; and

(3) Scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing; or

(c) Has met any of the conditions described in paragraph (b)(1) of this section after exiting permanent housing within the previous 90 days to seek other housing that is responsive to the very low-income veteran family's needs and preferences.

Assistance in obtaining or retaining permanent housing is a fundamental goal of the SSVF Program. Case management supporting permanent housing should include tenant counseling, mediation with landlords, and outreach to landlords.

*E. Authority:* Funding available under this NOFO is authorized by 38 U.S.C. 2044. VA implements the SSVF Program through regulations in 38 CFR part 62. Funds made available under this NOFO are subject to the requirements of these regulations.

*F. Requirements for the Use of Supportive Services Grant Funds:* The applicant's request for funding must be consistent with the limitations and uses of supportive services grant funds set forth in 38 CFR part 62 and this NOFO. In accordance with the regulations and this NOFO, the following requirements apply to supportive services grants awarded under this NOFO:

1. Grantees may use a maximum of 10% of supportive services grant funds for administrative costs identified in 38 CFR 62.70(e).

2. Grantees must use a minimum of 60% of the temporary financial assistance portion of their supportive services grant funds to serve very low-income veteran families who qualify under 38 CFR 62.11(b). (NOTE: Grantees may request a waiver to decrease this minimum, as discussed in section V.B.3.a.)

3. Grantees are required to have available temporary financial assistance resources that can be paid directly to a third party on behalf of a participant for child care, emergency housing assistance, transportation, rental assistance, utility-fee payment assistance, security deposits, utility deposits, moving costs and general housing stability assistance (which includes emergency supplies), and as

otherwise stated in 38 CFR 62.33 and 38 CFR 62.34.

*G. Guidance for the Use of Supportive Services Grant Funds:* Grantees are expected to demonstrate adoption of evidence-based practices most likely to lead to reductions in homelessness or, in communities that have successfully ended homelessness among veterans as defined by the USICH's Federal Criteria and Benchmarks, maintain gains that have been made in ending homelessness among Veterans. As part of their application, the applying organization's Executive Director must certify on behalf of the agency that they will actively participate in community planning efforts and operate the rapid re-housing component of their SSVF grant in a manner consistent with the Homelessness Prevention and Rapid Re-housing Best Practice Standards found at the following link: *https://www.va.gov/homeless/ssvf/?page=/ssvf_university/fidelity_tool_ssvf_standards.Housing* is not contingent on compliance with mandated therapies or services; instead, participants must comply with a standard lease agreement and be provided with the services and supports that are necessary to help them do so successfully.

Grantees must develop plans that will ensure that veteran participants have the level of income and economic stability needed to remain in permanent housing after the conclusion of the SSVF intervention. Both employment and benefits assistance from VA and non-VA sources represent a significant underutilized source of income stability for homeless veterans. Income is not a pre-condition for housing. Case management should include income maximization strategies to ensure households have access to benefits, employment and financial counseling. The complexity of program rules and the stigma some associate with entitlement programs contribute to their lack of use. For this reason, grantees are encouraged to consider strategies that can lead to prompt and successful access to employment and benefits that are essential to retaining housing. Consistent with 38 CFR 62.30–62.34, grantees are expected to offer the following supportive services: Counseling participants about housing; assisting participants in understanding leases; securing utilities; making moving arrangements; providing representative payee services concerning rent and utilities when needed; using health care navigation services to help participants access health and mental health care; providing legal services; and providing mediation and outreach to property owners related to locating or retaining housing. Grantees may also assist participants by providing rental assistance, security or utility deposits, moving costs, emergency housing, or general housing stability assistance; or using other Federal resources, such as the HUD Emergency Solutions Grants Program (ESG), or supportive services grant funds subject to the limitations described in this NOFO and 38 CFR 62.34.

1. As SSVF is a short-term crisis intervention, grantees must develop plans that will produce sufficient income or supports to sustain veteran participants in permanent housing after the conclusion of the initial SSVF intervention. Grantees must ensure the availability of employment and vocational services either through the direct provision of these services or their availability through formal or informal service agreements. Agreements with Homeless Veteran Reintegration Programs funded by the U.S. Department of Labor are strongly encouraged. For participants unable to work due to disability, income must be established through available benefits programs.

2. Per 38 CFR 62.33, grantees must assist participants in obtaining public benefits. Grantees must screen all participants for eligibility for a broad range of entitlements such as Temporary Assistance for Needy Families (TANF), Social Security, the Supplemental Nutrition Assistance Program, the Low-Income Home Energy Assistance Program, the Earned Income Tax Credit and local General Assistance programs. Grantees are expected to access the Substance Abuse and Mental Health Services Administration's Supplemental Security Income/Social Security Disability Insurance (SSI/SSDI) Outreach, Access, and Recovery (SOAR) program directly by training staff and providing the service or subcontracting services to an organization to provide SOAR services. In addition, where available, grantees should access information technology tools to support case managers in their efforts to link participants to benefits.

3. In accordance with 38 CFR 62.33(g), grantees must provide, or assist participants in obtaining, legal services relevant to issues that interfere with the participants' ability to obtain or retain permanent housing or supportive services. (NOTE: Information regarding legal services provided may be protected from being released to the grantee or VA under attorney-client privilege, although the grantee must provide sufficient information to demonstrate the frequency and type of service delivered.) Support for legal services can include paying for court filing fees to assist a participant with issues that interfere with the participant's ability to obtain or retain permanent housing or supportive services, including issues that affect the participant's employability and financial security. Grantees (in addition to employees and members of grantees) may represent participants before VA with respect to a claim for VA benefits, but only if they are recognized for that purpose pursuant to 38 U.S.C. Chapter 59. Further, the individual providing such representation must be accredited pursuant to 38 U.S.C. Chapter 59.

4. Access to mental health and addiction services is required by SSVF; however, grantees cannot fund these services directly through the SSVF grant. Applicants must demonstrate their ability to promote rapid access to and engagement with mental health and addiction services for the veteran and family members. Grantees are required to provide health care navigation services that aid participants in accessing these health and mental health care services.

5. When serving participants who are residing in permanent housing, the defining question to ask is: ''Would this individual or family be homeless but for this assistance?'' The grantee must use a VA-approved screening tool with criteria that target those most at-risk of homelessness. To qualify for SSVF services, a participant who is served under 38 CFR 62.11(a) (homeless prevention) must not have sufficient resources or support networks (*e.g.,* family, friends, faith-based or other social networks) immediately available to prevent them from becoming homeless. To further qualify for services under 38 CFR 62.11(a), the grantee must document that the participant meets at least one of the following conditions:

(a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(b) Is living in the home of another because of economic hardship;

(c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(d) Lives in a hotel or motel, and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;

(e) Is exiting a publicly funded institution or system of care (such as a health care facility, a mental health

facility, or correctional institution) without a stable housing plan; or

(f) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved screening tool.

6. SSVF grantees are required to participate in local planning efforts designed to end veteran homelessness. Grantees may use grant funds to support SSVF involvement in such community planning by sub-contracting with CoCs, when such funding is essential, to create or sustain the development of these data driven plans.

7. When other funds from community resources are not readily available to assist program participants, grantees may choose to utilize supportive services grants, to the extent described in this NOFO and in 38 CFR 62.33 and 62.34, to provide temporary financial assistance. Such assistance may, subject to the limitations in this NOFO and 38 CFR part 62, be paid directly to a third party on behalf of a participant for child care, transportation, family emergency housing assistance, rental assistance, utility-fee payment assistance, security or utility deposits, moving costs and general housing stability assistance as necessary.

8. SSVF requires grantees to offer Rapid Resolution (also known as diversion or problem solving) services. These services engage veterans immediately before or after they become homeless and assist them to avoid continued homelessness. These efforts can reduce the trauma and expense associated with extended periods of homelessness, and the strain on the crisis response and affordable housing resources in the community. Through Rapid Resolution, the grantee and the veteran explore safe, alternative housing options immediately before or quickly after they become homeless. Rapid Resolution can identify an immediate safe place to stay within the veteran's network of family, friends, or other social networks. All veterans requesting SSVF services should have a Rapid Resolution screening and if not appropriate for Rapid Resolution grantees should then assess the veteran for other SSVF services. More information about Rapid Resolution can be found at *www.va.gov/homeless/ssvf.*

## II. Award Information

*A. Overview:* This NOFO announces the availability of funds for supportive services grants under the SSVF Program and pertains to proposals for renewal of existing supportive services grant programs.

*B. Funding:* The funding priorities for this NOFO are as follows.

1. *Priority 1:* Under Priority 1, VA will provide funding to those grantees with 3-year CARF accreditations, 4-year COA accreditations, or 3-year JC accreditations. Proof of accreditation must be submitted with the application no later than the application due date. Grantees previously awarded a 3-year grant that is not scheduled to end by September 30, 2022, cannot apply under this NOFO but are required to submit a letter of intent (LOI) by the NOFO deadline indicating their intention of continuing SSVF services in fiscal year (FY) 2023. All grantees submitting a LOI must include a letter of support from the CoC (see Section II.C.9.) and a proposed budget for FY 2023. Priority 1 grantees submitting a LOI must also submit proof of continued accreditation.

2. *Priority 2.* Priority 2 includes other existing grantees seeking to renew their annual grant awards.

Both Priority 1 and 2 applicants must apply using the renewal application. To be eligible for renewal of a supportive services grant, the Priority 1 and 2 applicants' program must be substantially the same as the program of the grantees' current grant award. Renewal applications can request funding that is equal to or less than their current annualized award. If sufficient funding is available, VA may provide an increase of up to 2% from the previous year's award. Any percentage increase, if provided, will be awarded uniformly to all grant recipients regardless of their grant award.

3. *Priority 3.* Under Priority 3, VA will accept applications for new funding. Priority 3 applicants must apply using the application materials designated for new applicants. The availability and maximum awards are limited to those amounts specified for communities listed in Table 1. Eligible entities can submit only 1 application nationally under Priority 3. Funding for any Priority 3 applicant is limited to the maximum funding available for a single CoC, though applicants can propose to serve adjacent CoCs and include the combined maximum award totals into a single grant. For example, an eligible entity may elect to target CoCs CA–510 and CA–511 for its only allowable Priority 3 application as these CoCs are adjacent. As the maximum available funding for CA–510 and CA–511 is each $1 million, the applicant can submit a single application to serve both of these areas for up to $2 million. Priority 3 applications cannot exceed a total of $2 million even if adjacent CoCs are combined.

TABLE 1—PRIORITY 3 AREAS ELIGIBLE FOR FUNDING

| State | CoC | Maximum award (dollars) |
|---|---|---|
| CA ... | (CA–600) Los Angeles City & County CoC | 2,000,000 |
| WA .. | (WA–500) Seattle/King County CoC | 2,000,000 |
| CA ... | (CA–502) Oakland, Berkeley/Alameda County CoC | 2,000,000 |
| CA ... | (CA–501) San Francisco CoC | 2,000,000 |
| CA ... | (CA–503) Sacramento City & County CoC | 2,000,000 |
| CO ... | (CO–503) Metropolitan Denver CoC | 2,000,000 |
| AZ ... | (AZ–502) Phoenix, Mesa/Maricopa County CoC | 2,000,000 |
| IL ..... | (IL–510) Chicago CoC | 2,000,000 |
| WA .. | (WA–501) Washington Balance of State CoC | 2,000,000 |
| CA ... | (CA–514) Fresno City & County/Madera County CoC | 2,000,000 |
| CA ... | (CA–602) Santa Ana, Anaheim/Orange County CoC | 2,000,000 |
| IN .... | (IN–502) Indiana Balance of State CoC | 2,000,000 |
| TX ... | (TX–503) Austin/Travis County CoC | 2,000,000 |
| FL .... | (FL–502) St. Petersburg, Clearwater, Largo/Pinellas County CoC | 1,000,000 |
| FL .... | (FL–600) Miami-Dade County CoC | 1,000,000 |
| FL .... | (FL–601) Ft Lauderdale/Broward County CoC | 1,000,000 |
| IN .... | (IN–503) Indianapolis CoC | 1,000,000 |
| CA ... | (CA–603) Santa Maria/Santa Barbara County CoC | 1,000,000 |
| CO ... | (CO–500) Colorado Balance of State CoC | 1,000,000 |

TABLE 1—PRIORITY 3 AREAS ELIGIBLE FOR FUNDING—Continued

| State | CoC | Maximum award (dollars) |
|---|---|---|
| FL .... | (FL–507) Orlando/Orange, Osceola, Seminole Counties CoC | 1,000,000 |
| FL .... | (FL–510) Jacksonville-Duval, Clay Counties CoC | 1,000,000 |
| CA ... | (CA–606) Long Beach CoC | 1,000,000 |
| MT ... | (MT–500) Montana Statewide CoC | 1,000,000 |
| OH ... | (OH–507) Ohio Balance of State CoC | 1,000,000 |
| WA .. | (WA–503) Tacoma, Lakewood/Pierce County CoC | 1,000,000 |
| WI .... | (WI–500) Wisconsin Balance of State CoC | 1,000,000 |
| OK ... | (OK–502) Oklahoma City CoC | 1,000,000 |
| CA ... | (CA–511) Stockton/San Joaquin County CoC | 1,000,000 |
| NM .. | (NM–500) Albuquerque CoC | 1,000,000 |
| NJ .... | (NJ–503) Camden City & County/Gloucester, Cape May, Cumberland Counties CoC | 1,000,000 |
| NC ... | (NC–505) Charlotte/Mecklenburg County CoC | 1,000,000 |
| AR ... | (AR–501) Fayetteville/Northwest Arkansas CoC | 1,000,000 |
| CA ... | (CA–510) Turlock, Modesto/Stanislaus County CoC | 1,000,000 |
| NM .. | (NM–501) New Mexico Balance of State CoC | 1,000,000 |
| CA ... | (CA–604) Bakersfield/Kern County CoC | 1,000,000 |
| CA ... | (CA–604) Marin County CoC | 1,000,000 |
| FL .... | (FL–605) West Palm Beach/Palm Beach County CoC | 1,000,000 |
| OH ... | (OH–503) Columbus/Franklin County CoC | 1,000,000 |
| PA ... | (PA–509) Eastern Pennsylvania CoC | 1,000,000 |
| MO .. | (MO–606) Missouri Balance of State CoC | 750,000 |
| FL .... | (FL–511) Pensacola/Escambia, Santa Rosa Counties CoC | 750,000 |
| DE ... | (DE–500) Delaware Statewide CoC | 750,000 |
| VA ... | (VA–500) Richmond/Henrico, Chesterfield, Hanover Counties CoC | 750,000 |
| CA ... | (CA–513) Visalia/Kings, Tulare Counties CoC | 750,000 |
| CA ... | (CA–515) Roseville, Rocklin/Placer, Nevada Counties | 750,000 |

*C. Allocation of Funds:* Funding will be awarded under this NOFO to existing grantees for a 1-year (Priority 2 and 3) or a 3-year period (Priority 1) beginning October 1, 2022. The following requirements apply to supportive services grants awarded under this NOFO:

1. In response to this NOFO, only existing grantees can apply as Priority 1 or 2 applicants. New applicants apply under Priority 3.

2. Priority 1 and 2 renewal grant requests cannot exceed the current award.

3. If a Priority 1 or 2 applicant is not renewed, all existing SSVF grants made to the non-renewed grantee, including awards made to support 62.34(a), will be discontinued on September 30, 2022.

4. Priority 3 applicants cannot request funding that exceeds the amount listed in Table 1 as the Maximum Award. If an applicant proposes to serve adjacent CoCs in a single application, the maximum award is the lesser amount of those combined Maximum Awards listed in Table 1 or $2 million.

5. Priority 1 and 2 applicants may request an amount less than their current award (this will not be considered a substantial change to the program).

6. If a grantee failed to use all of awarded funds in the previous fiscal year (FY 2020) or had unspent funds returned to VA in FY 2021, VA may elect to limit the renewal award to the amount of funds used in the previous fiscal year or in the current fiscal year less the money swept.

7. If, during the course of the grant year, VA determines that Priority 1 and 2 grantee spending is not meeting the minimum percentage milestones below, VA may elect to recoup projected unused funds and reprogram such funds to provide supportive services in areas with higher need. Should VA elect to recoup unspent funds, reductions in available grant funds would take place the first business day following the end of the quarter. VA may elect to recoup funds under the following circumstances:

(a) By the end of the first quarter (December 31, 2022) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds are less than an amount equal to 15% of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 35% of the total supportive services grant award.)

(b) By the end of the second quarter (March 31, 2023) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds are less than an amount equal to 40% of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 60% of the total supportive services grant award.)

(c) By the end of the third quarter (June 30, 2023) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds are less than an amount equal to 65% of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 80% of the total supportive services grant award).

8. Applicants should fill out separate applications for each supportive services funding request.

9. Priority 1 and 2 applicants who fail to provide a letter of support from at least one of the CoCs they plan to serve will be eligible for renewal funding at a level no greater than 90% of their previous award. Priority 3 applicants must provide a letter of support from the CoC they are requesting funding to serve to be considered for an award. Applicants are responsible for determining who in each serviced CoC is authorized to provide such letters of support. This requirement applies to all applicants, including existing multi-year grantees that are only required to submit a LOI in response to this NOFO. In order to meet this requirement and allow the applicant to be eligible for full funding, letters must include the following:

(a) A detailed description of the applicant's participation in the CoC's Coordinated Entry process or planning activities and overall community planning efforts (for instance, confirmation of applicant's active participation in planning coordinated entry, commitment to participating in coordinated entry, hours spent on CoC-sponsored committee or workgroup assignments and names of said committees or workgroups).

(b) The applicant's contribution to the CoC's coordinated entry process capacity building efforts, detailing the specific nature of this contribution (for instance, the hours of staff time and/or the amount of funding provided), if such SSVF capacity has been requested by the CoC or otherwise has shown to be of value to the CoC.

10. Should additional funding become available over the course of the grant term from funds recouped under the Award Information section of this Notice, funds that are voluntarily returned by grantees, funds that become available due to a grant termination, or other funds still available for grant awards, VA may elect to offer these funds to grantees in areas where demand has exceeded available SSVF resources. Additional funds will be provided first to the highest scoring grantee in the selected area who is in compliance with their grant agreement and has the capacity to utilize the additional funds.

*D. Supportive Services Grant Award Period:* Priority 2 and 3 grants are made for a 1-year period, although selected grants may be eligible for a 3-year award (see VI.C.6) as Priority 1 awards. All grants are eligible to be renewed subject to the availability of funding.

## III. Eligibility Information

*A. Eligible Applicants:* For Priority 1 and 2, only eligible entities that are existing grantees with grants scheduled to end by September 30, 2022, can apply in response to this NOFO. For Priority 3, eligible entities may apply for up to one new award nationally. These applicants can apply to serve CoCs identified in Table 1. Applicants can request a maximum award dependent of the CoC where they are applying to provide SSVF services. These maximums are also listed in Table 1.

*B. Cost Sharing or Matching:* None.

## IV. Application and Submission Information

*A. Obtaining an Application Package:* Applications are located at *www.va.gov/homeless/ssvf.* Any questions regarding this process should be referred to the SSVF Program Office via email at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see 38 CFR part 62.

*B. Content and Form of Application:* Applicants must submit applications electronically following instructions found at *www.va.gov/homeless/ssvf.*

*C. Submission Dates and Times:* Applications for supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Time on February 7, 2022. Awards made for supportive services grants will fund operations beginning October 1, 2022. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. Additionally, in the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other delivery-related problems.

*E. Funding Restrictions:* Funding will be awarded for existing supportive services grants under this NOFO depending on funding availability. Priority 1 and 2 applicants should fill out separate applications for each supportive services funding request. Priority 1 and 2 applicants must use applications designated for renewal applicants. Priority 3 applicants must submit an application designated for new applicants. Funding will be awarded under this NOFO to existing grantees beginning October 1, 2022.

1. Funding used for staff education and training cannot exceed 1% of the overall program grant award. This limitation does not include the cost to attend VA mandated training. All training costs must be directly related to the provision of services to homeless veterans and their families.

2. Expenses related to maintaining accreditation are allowable. Grantees are allowed to include expenses for seeking initial accreditation only once in a 5-year period. The expenses to renew full accreditation are allowed and are based on the schedule of the accrediting agency: For instance, every 3 years for CARF and every 4 years for COA. Expenses related to the renewal of less than full accreditation are not allowed.

*F. Other Submission Requirements:*

1. Existing applicants applying for Priority 1 or 2 grants may apply only as renewal applicants using the application designed for renewal grants.

2. New applicants applying for Priority 3 grants may apply only as new applicants using the application designed for new grants.

3. At the discretion of VA, multiple grant proposals submitted by the same lead agency may be combined into a single grant award if the proposals provide services to contiguous areas.

4. Additional supportive services grant application requirements are specified in the application package. Submission of an incorrect or incomplete application package will result in the application being rejected during threshold review. The application packages must contain all required forms and certifications. Selections will be made based on criteria described in 38 CFR part 62 and this NOFO. Applicants and grantees will be notified of any additional information needed to confirm or clarify information provided in the application and the deadline by which to submit such information. Applicants must submit applications electronically. Applications may not be mailed, hand carried, or sent by facsimile.

## V. Application Review Information

*A. Criteria:*

1. VA will only score applicants that meet the threshold requirements described in 38 CFR 62.21.

2. VA will use the criteria described in 38 CFR 62.24 to score grantees applying for renewal (Priority 1 and 2) of a supportive services grant.

3. VA will use the criteria described in 38 CFR 62.22 to score grantees applying for a new supportive services grant (Priority 3).

*B. Review and Selection Process:* VA will review all supportive services renewal grant applications in response to this NOFO according to the following steps:

1. Score all applications that meet the threshold requirements described in 38 CFR 62.21.

2. Rank those applications that score at least 75 cumulative points and receive at least one point under each of the categories identified for renewal applicants in 38 CFR 62.24. The applications will be ranked in order from highest to lowest scores in accordance with 38 CFR 62.25 for renewal applicants.

3. VA will utilize the ranked scores of applications as the primary basis for selection. However, VA will also utilize the following considerations in 38 CFR 62.23(d) to select applicants for funding:

(a) Give preference to applications that provide or coordinate the provision

of supportive services for very low-income veteran families transitioning from homelessness to permanent housing. Consistent with this preference, where other funds from community resources are not readily available for temporary financial assistance, applicants are required to spend no less than 60% of all budgeted temporary financial assistance on participants occupying permanent housing as defined in 38 CFR 62.11. Waivers to this 60% requirement may be requested when grantees can demonstrate significant local progress towards eliminating homelessness in the target service area. Waiver requests must include data from authoritative sources such as USICH certification, that a community has ended homelessness as defined by Federal Benchmarks and Criteria or has reached Community Solution's Functional Zero. Waivers for the 60% requirement may also be requested for services provided to rural Indian tribal areas and other rural areas where shelter capacity is insufficient to meet local need. Waiver requests must include an endorsement by the impacted CoC explicitly stating that a shift in resources from rapid re-housing to prevention will not result in an increase in homelessness.

(b) To the extent practicable, ensure that supportive services grants are equitably distributed across geographic regions, including rural communities and tribal lands. This equitable distribution criteria will be used to ensure that SSVF resources are provided to those communities with the highest need as identified by VA's assessment of expected demand and available resources to meet that demand.

4. Subject to the considerations noted in paragraph B.3 above, VA will fund the highest-ranked applicants for which funding is available.

## VI. Award Administration Information

*A. Award Notices:* Although subject to change, the SSVF Program Office expects to announce grant recipients for all applicants in the fourth quarter of FY 2022 with grants beginning October 1, 2022. Prior to executing a funding agreement, VA will contact the applicants, to inform them of the amount of proposed funding, and verify that the applicant is still interested in the funding. Once VA verifies that the applicant is still seeking funding, VA will execute an agreement and make payments to the grant recipient in accordance with 38 CFR part 62 and this NOFO.

*B. Administrative and National Policy Requirements:*

As SSVF grants cannot be used to fund treatment for mental health or substance use disorders, applicants must provide evidence that they can provide access to such services to all program participants through formal and informal agreements with community providers.

*C. Reporting:* VA places great emphasis on the responsibility and accountability of grantees. As described in 38 CFR 62.63 and 62.71, VA has procedures in place to monitor supportive services provided to participants and outcomes associated with the supportive services provided under the SSVF Program. Applicants should be aware of the following:

1. Upon execution of a supportive services grant agreement with VA, grantees will have a VA regional coordinator assigned by the SSVF Program Office who will provide oversight and monitor supportive services provided to participants.

2. Grantees will be required to enter data into a Homeless Management Information System (HMIS) web-based software application. This data will consist of information on the participants served and types of supportive services provided by grantees. Grantees must treat the data for activities funded by the SSVF Program separate from that of activities funded by other programs. Grantees will be required to work with their HMIS Administrators to export client-level data for activities funded by the SSVF Program to VA on at least a monthly basis. The completeness and quality of grantee uploads into HMIS will be factored into the evaluation of their grant performance.

3. VA will complete annual monitoring evaluations of each grantee. Monitoring will also include the submittal of quarterly and annual financial and performance reports by the grantee. The grantee will be expected to demonstrate adherence to the grantee's proposed program, as described in the grantee's application. All grantees are subject to audits conducted by VA or its representative.

4. Grantees will be assessed based on their ability to meet critical performance measures. In addition to meeting program requirements defined by the regulations and applicable NOFO(s), grantees will be assessed on their ability to place participants into housing and the housing retention rates of participants served. Higher placement for homeless participants and higher housing retention rates for at-risk participants are expected for very low-income veteran families when compared to extremely low-income veteran families with incomes below 30% of the area median income.

5. Grantees' performance will be assessed based on their consumer satisfaction scores. These scores include the participation rates and results of both the standardized survey offered to all participant households and unannounced visits to assess screening and intake procedures (commonly known as a mystery shopper program).

6. Organizations receiving renewal awards that have had ongoing SSVF program operation for at least 1 year (as measured from the start of initial SSVF services until February 7, 2022) may be eligible for a 3-year award. Grantees meeting outcome goals defined by VA and in substantial compliance with their grant agreements (defined by meeting targets and having no outstanding corrective action plans) and who, in addition, receive 3-year accreditation from CARF in Employment and Community Services: Rapid Rehousing and Homeless Prevention standards, a 4-year accreditation from COA in Supported Community Living Services, or a 3-year accreditation in The Joint Commission's Behavioral Health Care: Housing Support Services Standards are eligible for a 3-year grant renewal subject to funding availability. (NOTE: Multi-year awards are contingent on funding availability). If awarded a multiple year renewal, grantees may be eligible for funding increases as defined in NOFOs that correspond to years 2 and 3 of their renewal funding.

## VII. Other Information

*A. VA Goals and Objectives for Funds Awarded Under this NOFO:* In accordance with 38 CFR 62.24(c), VA will evaluate an applicant's compliance with VA goals and requirements for the SSVF Program. VA goals and requirements include the provision of supportive services designed to enhance the housing stability and independent living skills of very low-income veteran families occupying permanent housing across geographic regions and program administration in accordance with all applicable laws, regulations, and guidelines. For purposes of this NOFO, VA goals and requirements also include the provision of supportive services designed to rapidly re-house or prevent homelessness among people in the following target populations who also meet all requirements for being part of a very low-income veteran family occupying permanent housing:

1. Veteran families earning less than 30% of area median income as most recently published by HUD for programs under section 8 of the United States

Housing Act of 1937 (42 U.S.C. 1437f) (*http://www.huduser.org*).

2. Veterans with at least one dependent family member.

3. Veterans returning from Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn.

4. Veteran families located in a community, as defined by HUD's CoC, or a county not currently served by a SSVF grantee.

5. Veteran families located in a community, as defined by HUD's CoC, where the current level of SSVF services is not sufficient to meet demand of Category 2 and 3 (currently homeless) veteran families.

6. Veteran families located in a rural area.

7. Veteran families located on Indian Tribal Property.

*B. Payments of Supportive Services Grant Funds:* Grantees will receive payments electronically through the U.S. Department of Health and Human Services Payment Management System. Grantees will have the ability to request payments as frequently as they choose subject to the following limitations:

1. During the first quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 35% of the total supportive services grant award without written approval by VA.

2. By the end of the second quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 6% of the total supportive services grant award without written approval by VA.

3. By the end of the third quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 80% of the total supportive services grant award without written approval by VA.

4. By the end of the fourth quarter of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 100% of the total supportive services grant award.

## Signing Authority

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

**Jeffrey M. Martin,**

*Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

[FR Doc. 2021–25463 Filed 11–19–21; 8:45 am]

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