FEDERAL REGISTER

Vol. 87 Monday

No. 30 February 14, 2022

Pages 8139–8390

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

How To Cite This Publication: Use the volume number and the page number. Example: 87 FR 12345.

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

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

Contents

Federal Register

Vol. 87, No. 30

Monday, February 14, 2022

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 87, No. 30
Monday, February 14, 2022

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 915 and 944

[Doc. No. AMS–SC–20–0082; SC20–915–2 FR]

Avocados Grown in South Florida and Imported Avocados; Change in Maturity Requirements

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule changes the maturity requirements currently prescribed under the Florida avocado marketing order. The marketing order regulates the handling of avocados grown in South Florida and is administered locally by the Avocado Administrative Committee (Committee). This change establishes beginning and end dates for the annual maturity shipping schedule. A corresponding change will be made to the avocado import regulation as required under section 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Effective March 16, 2022.

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

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Agreement No. 121 and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida. Part 915 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of growers and handlers of avocados operating within the production area, and a public member.

This rule is also issued under section 8e of the Act (7 U.S.C. 608e–1), which provides that whenever certain specified commodities, including avocados, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for domestically produced commodities.

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

This rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have tribal implications. In accordance with Executive Order 13175, the Agricultural Marketing Service (AMS) has not identified any tribal implications because of this rule.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling (7 U.S.C. 608c(15)(B)).

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This final rule changes the maturity requirements under the Order. This action establishes April 16 to April 15 of the following year as the beginning and end dates for the annual maturity shipping schedule, with an exception for the requirements listed under Guatemalan seedling, which would run from June 9 to June 8 of the following year. This final rule provides clarity regarding the schedule and dates in effect, assists with compliance to help ensure a quality product reaches consumers, and reflects current industry practices. These changes were unanimously recommended by the Committee at its October 14, 2020, meeting.

Section 915.51 of the Order provides, in part, authority to establish maturity requirements under the Order. Section 915.52 of the Order provides authority for the modification, suspension, or termination of established regulations. Section 915.332 of the Order's rules and regulations establishes the maturity requirements for avocados grown in Florida. These requirements are specified in Table I of § 915.332(a) and establish minimum weights and diameters to delineate specific shipping

time frames for avocados shipped under the Order. Maturity requirements for avocados imported into the United States are currently in effect under § 944.31.

The maturity regulations are designed to prevent the shipment of immature avocados, and include the annual shipping schedule to help ensure only mature fruit reaches the market. Avocado varieties mature at different times, and varieties can vary considerably in terms of size and weight. Consequently, the schedule establishes shipping dates and maturity requirements by variety. Varieties not specifically listed on the schedule are covered by the requirements for West Indian seedling or Guatemalan seedling. These maturity dates and requirements are established based on a testing procedure developed by USDA.

The shipping schedule in Table I specifies the individual maturity requirements for the numerous avocado varieties shipped each season. As larger fruit within a variety matures earliest, the schedule makes the larger sized fruit available for market first followed by later dates to incrementally release smaller sizes for shipment as they mature. As such, the maturity requirements for a variety are usually divided into A, B, C, and D dates, which are associated with specific weights and sizes reflecting when a particular variety matures.

Avocados may not be handled until the earliest date, the A date, specified for that variety on the shipping schedule so only the largest, most mature fruits are available for market for each variety early in its season. The final date, the D date, for each variety correlates to the end of its season when all fruits of that variety should be mature and releases all remaining sizes and weights for shipment.

While the maturity schedule includes dates and maturity requirements for individual varieties, the regulations do not specify beginning and end dates for the annual maturity schedule itself. In the past, there was a gap in shipments in April, which created a natural break from one season's schedule to the next, with the first varieties appearing on the maturity schedule in May. This break served as the indicator of where the requirements of one annual schedule ended, and the new annual schedule began.

Such a differentiation between schedules is important as it clarifies which schedule is in place, so handlers know which maturity requirements need to be met. Specifically, this demarcation makes it clear the D dates for one schedule do not stretch to the A dates of the new schedule. Such a delineation between schedules provides a gap between the D dates and the A dates for the next season. This helps to ensure avocados are not shipped early to take advantage of the relaxed maturity requirements of the D-date, which could result in the shipment of immature fruit, and would circumvent the requirement that avocados may not be handled prior to the earliest date specified by the A date for that variety.

However, with the development of late-season varieties, there has been an increase in shipments under the Guatemalan seedling category in March, April, and May. Consequently, there is no longer a break in shipments between annual schedules, which has created an overlap from one annual schedule to the next. With this overlap, questions have arisen regarding the schedule, and when one annual schedule ends and another begins.

In discussing this issue, the Committee supported establishing beginning and end dates for the maturity schedule to address the overlap, and to address questions regarding which maturity schedule and dates were in effect. The Committee believes doing so will provide clarity regarding the schedule and assist with any compliance issues related to the dates established.

The Committee agreed that using an end date of April 15 for the shipping schedule, with an exception for avocados handled under the Guatemalan seedling category, would be appropriate. This date reflects the break in schedules the industry has used to delineate one schedule from the next, and it remains applicable for all listings on the shipping schedule apart from the Guatemalan seedling.

For most avocados covered under the schedule, the normal harvest cycle, from the A date when the harvest of a particular variety begins to when all fruit of that variety has been picked, is around three months. The last A date listed on the schedule for a specific variety is for the Monday nearest December 12, with a D date of the following Monday nearest January 23. Using these dates, April 15 will provide more than enough time to harvest and ship those varieties listed on the schedule, other than Guatemalan seedling.

While the A date for the ''Guatemalan Seedling'' appears on the maturity schedule in September, the listing provides the maturity requirements for avocados of the Guatemalan type varieties and seedlings, as well as hybrid varieties and seedlings, and unidentified seedlings not listed elsewhere in Table I. Consequently, the requirements for the Guatemalan seedling cover numerous varieties with shipments extending into March, April, and May for some of the varieties in this category.

Recognizing the shipments under the Guatemalan seedling and related varieties and seedlings do not conform to the same seasonal schedule as the other varieties listed on the maturity schedule, the Committee considered alternative dates for the beginning and end dates for the maturity requirements for those varieties covered under this category. In discussing dates for the Guatemalan seedling, Committee members were concerned about establishing an end date that was beyond the proper maturity timeframe for this fruit, which could allow inferior fruit to enter the market.

Avocados mature on the tree and start the ripening process as they are picked. Avocados can be held on the tree to delay shipments or to lengthen the harvest period. However, if they remain on the tree too long, they will pass their optimal maturity. This can negatively impact the quality of the fruit resulting in fruit that is overmature or overripe.

In past seasons, the industry had been considering June 30 as an end date for the annual requirements for Guatemalan seedling. However, Committee members agreed this date was too late in the season and could result in poor quality fruit reaching the market, as some overripe avocados had appeared at the wholesale level. Committee members believe setting an end date earlier in the month will address the issues related to overmature fruit, improving the quality of avocados entering the market, and providing customers with a better product.

According to information from the Committee, avocados declared as Guatemalan seedling have typically completed shipping before the first week in June. Considering the timing of shipments, and to ensure consumers are receiving a quality product, the Committee recommended establishing an end date for the Guatemalan maturity requirements of June 8.

With most shipments ending before the first week in June, a June 8 end date provides an additional week for handlers to ship any remaining avocados covered by the Guatemalan seedling requirements. Also, by having a clear end date defining where one schedule ends, and the new schedule becomes applicable, handlers can adjust their shipping dates accordingly to meet the requirements.

As a result, the Committee recommended establishing beginning

and end dates for the annual maturity shipping schedule of April 16 to April 15 of the following year, with an exception for Guatemalan seedling which extends from June 9 to June 8 of the following year. The Committee believes establishing these dates will provide clarity regarding the schedule, assist with compliance to help ensure a quality product reaches consumers, and reflect current industry practices and changes in the industry. This change only impacts the maturity requirements under the Order and makes no change to the current grade requirements.

Section 8e of the Act provides that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Maturity requirements for avocados imported into the United States are currently in effect under § 944.31. As this rule revises the maturity requirements for Florida avocados by establishing beginning and end dates for the annual maturity shipping schedule, a corresponding change needs to be made to the import regulations.

Imports and importers will also benefit from these changes, which establish beginning and end dates for the maturity requirements. Clarifying the schedule and the requirements that are in place, thus helping ensure customers are receiving a quality product is beneficial for the entire industry, including imports.

The Hass, Fuerte, Zutano, and Edranol varieties of avocados currently are exempt from the maturity regulations and continue to be exempt under this final rule. However, these varieties are not exempt from the import grade regulation, which is not being changed by this action.

Final Regulatory Flexibility Analysis

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

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

There are approximately 325 producers of Florida avocados in the production area and 25 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

According to the National Agricultural Statistical Service (NASS), the average grower price paid for Florida avocados during the 2020–21 season was $21.97 per 55-pound bushel. Utilized production was equivalent to 624,364 55-pound bushels for a total value of over $13,718,830. Dividing the crop value by the estimated number of producers (325) yields an estimated average receipt per producer of $42,212, so the average producer would have annual receipts of less than $1,000,000, which is below the SBA threshold for small agricultural producers. Therefore, Florida avocado producers are considered small businesses.

USDA Market News reported April 2021 terminal market prices for green skinned avocados were about $36.43 per 24-pound container. Using this price and the total utilization, the total 2020–21 handler crop value is estimated at $52.1 million. Dividing this figure by the number of handlers (25) yields estimated average annual handler receipts of $2.08 million, which is below the SBA threshold for small agricultural service firms.

In 2020, the Dominican Republic, Peru, Mexico, and Colombia were the major countries exporting avocado varieties other than Hass to the United States. In 2020, shipments of these types of avocados imported into the United States totaled around 29,630 metric tons. Of that amount, 29,133 metric tons were imported from the Dominican Republic. Information from USDA's Global Agricultural Trade System database indicates the dollar value of these avocados to be approximately $41,385,000. There are approximately 20 importers of green skin avocadoes. Using the total value and the number of importers, the average importer would have annual receipts of less than $30 million.

Based on these estimates, the majority of Florida avocado producers and handlers, and importers, may be classified as small entities.

This rule changes the maturity requirements under the Order. This action establishes April 16 to April 15 of the following year as the beginning and end dates for the annual maturity shipping schedule, with an exception for Guatemalan seedling which will run from June 9 to June 8 of the following year. This rule provides clarity regarding the maturity schedule and dates in effect, assists with compliance to help ensure a quality product reaches consumers, and reflects current industry practices. This rule revises § 915.332. Authority for this change is provided in §§ 915.51 and 915.52. This rule will also change § 944.31 in the avocado import regulation, as is required by section 8e of the Act.

This action is not expected to increase the costs associated with the Order's requirements or the avocado import regulation. Rather, it is anticipated that this action will have a beneficial impact by providing clarity regarding the maturity schedule and dates in effect, assist with compliance, and help ensure a quality product reaches consumers.

This change will provide clarity as to which schedule is in place, so producers, handlers, and importers know which maturity requirements need to be met. Establishing beginning and end dates for the maturity requirements will clearly identify when the requirements of one annual schedule end, and the new annual schedule begins. Further, having a delineation between schedules assists with compliance by making it clear that the D dates for one schedule do not stretch to the A date of the new schedule. This will help ensure that immature avocados are not shipped early using the previous season's D date to circumvent the requirement that avocados may not be handled prior to the A date specified for that variety.

For the Guatemalan seedling, establishing the beginning and end dates for the annual maturity requirements should help prevent shipments beyond the quality lifecycle of varieties covered under this category. This change sets a clear date by which shipments under the D date will end, assisting both with compliance and with fruit quality. Absent this change, fruit could be shipped past its proper maturity period, which could provide the consumer with an inferior product.

This change will not create any additional burdens for producers, handlers, or importers. The April 15 end date reflects the break in schedules the industry has used to delineate one schedule from the next, and it remains applicable for all listings on the shipping schedule, apart from the Guatemalan seedling. The April 15 end date provides more than enough time to harvest and ship those varieties listed on the schedule.

For those varieties covered under the Guatemalan seedling, Committee data

indicates most shipments are completed before the first week in June. This change provides an additional week beyond June 1 for handlers to ship any remaining avocados covered by the Guatemalan seedling requirements. Also, by establishing a clear end date, handlers can adjust their shipping dates accordingly to meet the new requirements. Establishing an end date of June 8 for maturity requirements for the Guatemalan seedling will provide sufficient time for avocados to ship under this designation, while helping prevent the shipment of overmature fruit.

This final rule provides clarity regarding the maturity schedule and dates in effect, assists with compliance to help ensure a quality product reaches consumers, and reflects current industry practices. The benefits of this rule are expected to be equally available to all fresh avocado growers, handlers, and importers, regardless of their sizes of operations.

One alternative to this action would be to maintain the current maturity requirements without establishing end dates for the maturity schedule. However, the Committee recognized that shipments have changed over the years and wanted to provide clarity regarding the maturity schedule. Another alternative considered was establishing an end date for the requirements for Guatemalan seedling of June 30. In discussing this date, Committee members expressed concern that this date was past the proper maturity for this fruit and would allow inferior fruit to enter the market. The Committee believes establishing the changes in this rule, rather than the alternatives, would assist with compliance and help ensure a quality product reaches consumers. Therefore, the Committee rejected these alternatives.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0189, Fruit Crops. No changes in those requirements are necessary as a result of this rule. Should any changes become necessary, they would be submitted to OMB for approval.

This rule does not impose any additional reporting or recordkeeping requirements on either small or large avocado handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. Further, the public comments received concerning the proposal did not address the initial regulatory flexibility analysis.

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

Committee meetings were widely publicized throughout the avocado industry. All interested persons were invited to attend Committee meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the October 14, 2020, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on August 12, 2021 (86 FR 44286). Copies of the proposed rule were also mailed or sent via email to all Florida avocado handlers. The proposal was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending October 12, 2021, was provided for interested persons to respond to the proposal.

During the comment period, three comments were received in response to the proposal. Of the comments received, one comment was in support of the change and two were opposed.

The one comment in support agreed with the proposed changes and stated their support for the domestic industry. In addition, the commentor added the changes would ensure products are ripe and safe for consumers.

The two comments received in opposition to the change were from industry representatives from the Dominican Republic. Both commentors stated the change would have a negative impact on avocados imported from the Dominican Republic by shortening the calendar and limiting imports. Based on a review of the comments submitted and available information, USDA does not believe this will shorten the calendar year nor have a negative impact on imported shipments based on the reasons discussed below.

The end dates established are consistent with current industry practices and provide ample time for varieties to ship prior to the end dates for the schedule. As previously mentioned, most avocados subject to the maturity schedule are harvested within three months of the A date. The last A date listed on the schedule for a specific variety is for the Monday nearest December 12, with a D date of the following Monday nearest January 23. The end date of April 15 falls four months after the final listed A date and provides handlers sufficient time to harvest and ship varieties listed on the schedule.

Regarding the end date for the Guatemalan seedling, the industry had been considering June 30 as an end date for the annual requirements for Guatemalan seedling. However, Committee members agreed this date was too late in the season and had resulted in overmature, poor quality fruit reaching the market. Setting an end date earlier in the month helps address the issues related to overmature fruit, improving the quality of avocados entering the market, and benefiting growers, handlers, and importers by ensuring consumers receive a quality piece of fruit.

Further, the end date of June 8 is not a significant change from the June 30 date the industry had previously considered. Based on information available, most shipments of Guatemalan seedlings end before the first week in June, and the end date of June 8 still provides an additional week for handlers to ship any remaining avocados. While avocados can be held on the tree for a period after they have reached maturity, varieties covered under the Guatemalan seedling are mature and available for harvest and shipment before the established end date. Handlers and importers can adjust their harvesting and shipping dates to reflect the end dates for the schedule.

Consequently, shipments should not be negatively impacted by establishing end dates for the schedule, nor does the calendar year shorten as a result of this rule. The end dates will also help prevent the shipment of overmature avocados that have been held on the tree too long.

One comment also stated the change would affect the export of more than 150 containers per year causing an economic loss of more than $7 million per season. Based on the other information contained in the comment, the statements about the volume and monetary impact stem from concerns regarding how the variety commonly referred to in the Dominican Republic as Beneke will be handled under this change. Importers have been declaring the Beneke variety as West Indian seedling, Hardee, Berni, Beni, and other names, as well as Guatemalan seedling during the importation process. This variety usually ships during the period of overlap in the schedules and can have shipments into July.

The commentor is concerned the change to the maturity schedule would directly affect the imports of this variety as many importers have been declaring the Beneke as Guatemalan seedling at the time of inspection. The commentor believes this change would negatively impact the importation of this variety by reducing its shipment timeframe to that specified for the Guatemalan seedling.

However, in the comment, the Beneke is described as a variety which changes color from green to dark purple. Sections 915.332 of the Order and 944.31 of the Avocado import maturity regulation, provide an exemption from the maturity regulation for varieties which normally change color to any shade of red or purple when mature, except for the Linda variety. Consequently, varieties that break in color, such as Beneke, are exempt from the maturity schedule. As such, this change will not impact the Beneke variety.

The commentor also suggests that Beneke be adopted as the official name for this variety and asked that procedures be updated to assist with the importation of this variety. USDA is familiar with the Beneke variety and has been working on ways to facilitate its entry into the United States. USDA has requested a United Nations Standard Products and Services Code for the Beneke variety. Once obtained, the codes can be used when presenting this variety for entry into the United States. The importer should also identify the variety as Beneke when submitting the request for inspection. These steps should facilitate the importation of this variety and prevent unnecessary issues and delays during the inspection process.

Accordingly, for the reasons discussed above, no changes will be made to the rule as proposed based on the comments received.

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

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

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

List of Subjects

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges, Plums, Prunes.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR parts 915 and 944 as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 1. The authority citation for part 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 915.332 is amended by adding paragraph (a)(4) to read as follows:

§ 915.332 Florida avocado maturity regulation.

(a) * * *

(4) The requirements listed in table I of this section are in effect annually from April 16 through April 15 of the following year, with an exception for the requirements for Guatemalan seedling which are in effect annually from June 9 to June 8 of the following year.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 3. The authority citation for part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 4. Section 944.31 is amended by adding paragraph (a)(4) to read as follows:

§ 944.31 Avocado import maturity regulation.

(a) * * *

(4) The requirements listed in table I of this section are in effect annually from April 16 through April 15 of the following year, with an exception for the requirements for Guatemalan seedling which are in effect annually from June 9 to June 8 of the following year.

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–03110 Filed 2–11–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2021–0628; Special Conditions No. 25–802–SC]

Special Conditions: Dassault Aviation Model Falcon 6X Airplane; Flight-Envelope Protection: General Limiting Requirements

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

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dassault Aviation (Dassault) Model Falcon 6X airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a new control architecture and a full digital flight control system that provides comprehensive flight-envelope protections. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Dassault on February 14, 2022. Send comments on or before March 31, 2022.

ADDRESSES: Send comments identified by Docket No. FAA–2021–0628 using any of the following methods:

- *Federal eRegulations Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (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 FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information: 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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the Information Contact below. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Docket: Background documents or comments received may be read at *https://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Troy Brown, Performance and Environment Section, AIR–625, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 1801 S Airport Rd., Wichita, KS 67209–2190; telephone and fax 405–666–1050; email *troy.a.brown@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to § 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On July 1, 2012, Dassault applied for a type certificate for its new Model Falcon 5X airplane. However, Dassault has decided not to release an airplane under the model designation Falcon 5X, instead choosing to change that model designation to Falcon 6X.

In February of 2018, due to engine supplier issues, Dassault extended the type certificate application date for its Model Falcon 5X airplane under new Model Falcon 6X. This airplane is a twin-engine business jet with seating for 19 passengers, and has a maximum takeoff weight of 77,460 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Dassault must show that the Model Falcon 6X airplane meets the applicable provisions of part 25, as amended by amendments 25–1 through 25–146.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Dassault Model Falcon 6X airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Dassault Model Falcon 6X airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Dassault Model Falcon 6X airplane will incorporate the following novel or unusual design features:

New control architecture and a full digital flight control system that provides comprehensive flight-envelope protections.

Discussion

The applicable airworthiness regulation is § 25.143. The purpose of § 25.143 is to verify that operational maneuvers conducted within the operational envelope can be accomplished smoothly with average piloting skill and without exceeding structural limits. The pilot should be able to predict the airplane response to any control input. During the course of the flight-test program, the pilot determines compliance with § 25.143 primarily through qualitative methods. During flight test, the pilot should evaluate all of the following:

- The interface between each protection function;
- Transitions from one mode to another;
- Airplane response to intentional dynamic maneuvering, whenever applicable, through dedicated maneuvers;
- General controllability assessment;
- High-speed characteristics; and
- High angle-of-attack.

However, the regulations do not adequately ensure that the novel or unusual features of the electronic flight control system will have a level of safety equivalent to that of existing standards. The general limiting requirements are necessary to ensure a smooth transition from normal flight to the protection mode and adequate maneuver capability. The general limiting requirements also ensure that the structural limits of the airplane are not exceeded. Furthermore, failure of the flight-envelope protection feature must not create hazardous flight conditions.

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

Applicability

As discussed above, these special conditions are applicable to the Dassault Model Falcon 6X airplane. Should Dassault apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Dassault Aviation Model Falcon 6X airplanes.

General Limiting Requirements

a. Onset characteristics of each flight-envelope protection feature must be smooth, appropriate to the phase of flight and type of maneuver, and not in conflict with the ability of the pilot to satisfactorily change airplane flight path, speed, or attitude as needed.

b. Limit values of protected flight parameters (and, if applicable, associated warning thresholds) must be compatible with the following:

1. Airplane structural limits,

2. Required safe and controllable maneuvering of the airplane, and

3. Margins to critical conditions.

Unsafe flight characteristics/conditions must not result if dynamic maneuvering, airframe, and system tolerances (both manufacturing and inservice), and non-steady atmospheric conditions, in any appropriate combination and phase of flight, can produce a limited flight parameter beyond the nominal design limit value.

c. The airplane must be responsive to intentional dynamic maneuvering to within a suitable range of the parameter limit. Dynamic characteristics such as damping and overshoot must also be appropriate for the flight-maneuver and limit parameter in question.

d. When simultaneous envelope limiting is engaged, adverse coupling or adverse priority must not result.

Failure States

a. Electronic flight-control system (EFCS) failures, including sensors, must not result in a condition where a parameter is limited to such a reduced value that safe and controllable maneuvering is no longer available.

b. The crew must be alerted by suitable means if any change in envelope limiting or maneuverability is produced by single or multiple failures of the EFCS not shown to be extremely improbable.

Issued in Kansas City, Missouri, on February 8, 2022.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–03025 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2020–1039; Special Conditions No. 25–807–SC]

Special Conditions: Dassault Aviation Model Falcon 6X Airplane; Electronic Flight-Control System: Lateral-Directional and Longitudinal Stability and Low-Energy Awareness

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

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dassault Aviation (Dassault) Model Falcon 6X airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is an electronic flight-control system (EFCS) associated with lateral-directional and longitudinal stability, and low-energy awareness. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Dassault on February 14, 2022. Send comments on or before March 31, 2022.

ADDRESSES: Send comments identified by Docket No. FAA–2020–1039 using any of the following methods:

- *Federal eRegulations Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (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 FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information: 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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the Information Contact below. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for this rulemaking.

Docket: Background documents or comments received may be read at *https://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Troy Brown, Performance and Environment Section, AIR–625, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service,

Federal Aviation Administration, 1801 S Airport Rd., Wichita, KS 67209–2190; telephone and fax 405–666–1050; email *troy.a.brown@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to § 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On July 1, 2012, Dassault applied for a type certificate for its new Model Falcon 5X airplane. However, Dassault has decided not to release an airplane under the model designation Falcon 5X, instead choosing to change that model designation to Falcon 6X.

In February of 2018, due to engine supplier issues, Dassault extended the type certificate application date for its Model Falcon 5X airplane under new Model Falcon 6X. This airplane is a twin-engine business jet with seating for 19 passengers, and has a maximum takeoff weight of 77,460 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Dassault must show that the Model Falcon 6X airplane meets the applicable provisions of part 25, as amended by amendments 25–1 through 25–146.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Dassault Model Falcon 6X airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Dassault Model Falcon 6X airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Dassault Model Falcon 6X airplane will incorporate the following novel or unusual design features:

Lateral-directional and longitudinal stability, and low-energy awareness, functions of the EFCS.

Discussion

Lateral-directional Static Stability: The Dassault Model 6X airplane includes a flight-control design feature within the normal operational envelope in which side-stick deflection in the roll axis commands roll rate; and stick force in the roll axis will be zero (neutral stability) during the straight, steady sideslip flight maneuver required by § 25.177(c), which will not be ''substantially proportional to the angle of sideslip'' as required by the rule.

Longitudinal Static Stability: The longitudinal flight control laws for the Model Falcon 6X airplane provide neutral static stability within the normal operational envelope; therefore, the airplane design does not comply with the static longitudinal stability requirements of §§ 25.171, 25.173, and 25.175.

Low Energy Awareness: Static longitudinal stability provides awareness to the flight crew when they have deviated from a trimmed state. This could also be an important factor in their awareness of a low energy state (low speed and thrust at low altitude) if they are flying at low speeds. Entry into a low energy state may be less noticeable due to this lack of static stability and recovery may become more hazardous when associated with a low altitude and performance limiting conditions. These low energy situations must therefore be avoided, and pilots must be given adequate cues when approaching such situations.

The EFCS affects the following stability and energy-awareness features of the airplane:

1. Lateral-Directional Static Stability

The EFCS on the Dassault Model Falcon 6X contains fly-by-wire control laws that can result in neutral lateral-directional static stability. Therefore, the airplane does not meet the conventional requirements in the regulations.

Positive static directional stability is defined as the tendency to recover from a skid with the rudder free. Positive static lateral stability is defined as the tendency to raise the low wing in a sideslip with the aileron controls free. These control criteria are intended to accomplish the following:

a. Provide additional cues of inadvertent sideslips and skids through control-force changes.

b. Ensure that short periods of unattended operation do not result in any significant changes in yaw or bank angle.

c. Provide predictable roll and yaw response.

d. Provide an acceptable level of pilot attention (workload) to attain and maintain a coordinated turn.

2. Static Longitudinal Stability

Static longitudinal stability on airplanes with mechanical links to the pitch-control surface means that a pull force on the controller results in a reduction in speed relative to the trim speed, and a push force results in higher than trim speed. Longitudinal stability is required by the regulations for the following reasons:

a. Speed-change cues are provided to the pilot through increased and decreased forces on the controller.

b. Short periods of unattended control of the airplane do not result in significant changes in attitude, airspeed, or load factor.

c. A predictable pitch response is provided to the pilot.

d. An acceptable level of pilot attention (workload) to attain and maintain trim speed and altitude is provided to the pilot.

e. Longitudinal stability provides gust stability.

The pitch-control movement of the side stick on the Model Falcon 6X airplane is designed to be a normal load factor, or ''g'' command, that results in an initial movement of the elevator surface to attain the commanded load factor that is then followed by integrated movement of the stabilizer and elevator to automatically trim the airplane to a neutral, 1g, stick-free stability. The flight path commanded by the initial side-stick input will remain, stick-free, until the pilot provides another command. This control function is

applied during ''normal'' control law within the speed range, from initiation of the angle-of-attack protection limit, V_{prot}, to V_{MO}/M_{MO}. Once outside this speed range, the control laws introduce the conventional longitudinal static stability as described above.

As a result of neutral static stability, the Model Falcon 6X airplane does not meet the regulatory requirements for static longitudinal stability.

3. Low Energy Awareness

Past experience on airplanes fitted with a flight-control system providing neutral longitudinal stability reveals insufficient feedback cues to the pilot of excursion below normal operational speeds. The maximum angle-of-attack protection system limits the airplane angle of attack and prevents stall during normal operating speeds, but this system is not sufficient to prevent stall at low-speed excursions below normal operational speeds. Until intervention, there are no stability cues because the aircraft remains trimmed. Additionally, feedback from the pitching moment due to thrust variation is reduced by the flight-control laws. Low-speed excursions may become more hazardous without the typical longitudinal stability, and recovery is more difficult when the low-speed situation is associated with a low altitude, and with the engines at low thrust or with performance-limiting conditions.

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

Applicability

As discussed above, these special conditions are applicable to the Dassault Model Falcon 6X airplane. Should Dassault apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Dassault Aviation Model Falcon 6X airplane.

In lieu of the requirements of §§ 25.171, 25.173, 25.175, and 25.177(c), the following special conditions apply:

1. The airplane must be shown to have suitable static lateral, directional, and longitudinal stability in any condition normally encountered in service, including the effects of atmospheric disturbance. The showing of suitable static lateral, directional, and longitudinal stability must be based on the airplane handling qualities, including pilot workload and pilot compensation, for specific test procedures during the flight-test evaluations.

2. The airplane must provide adequate awareness to the pilot of a low energy (low speed, low thrust, low height) state when fitted with flight-control laws presenting neutral longitudinal stability significantly below the normal operating speeds. ''Adequate awareness'' means warning information must be provided to alert the crew of unsafe operating conditions, and to enable them to take appropriate corrective action.

3. The following requirement must be met for the configurations and speed specified in paragraph (a) of § 25.177. In straight, steady sideslips over the range of sideslip angles appropriate to the operation of the airplane, the rudder-control movements and forces must be substantially proportional to the angle of sideslip in a stable sense. This factor of proportionality must lie between limits found necessary for safe operation. The range of sideslip angles evaluated must include those sideslip angles resulting from the lesser of:

a. One-half of the available rudder control input; and

b. A rudder control force of 180 pounds.

Issued in Kansas City, Missouri, on February 8, 2022.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–03026 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2021–1023; Special Conditions No. 25–811–SC]

Special Conditions: The Boeing Company, Model 737–10 Airplane; Dynamic Test Requirements for Single-Occupant, Oblique (Side-Facing) Seats Installed at 49 Degrees With Airbag Devices and 3-Point Restraints

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

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for The Boeing Company (Boeing) Model 737–10 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is single-occupant oblique seats with airbag devices and 3-point restraints, installed at 49 degrees relative to the airplane cabin bow-to-stern centerline. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective February 14, 2022.

FOR FURTHER INFORMATION CONTACT: John Shelden, Human Machine Interface Section, AIR–626, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3214; email *john.shelden@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2019, Boeing applied for a change to Type Certificate No. A16WE for the installation of single-occupant oblique seats, with airbag devices and 3-point restraints, installed at 49 degrees relative to the airplane cabin bow-to-stern centerline in the Boeing Model 737–10 airplane. The Boeing Model 737–10 airplane is a twin-engine, transport-category airplane with seating for 230 passengers and a maximum takeoff weight of 197,900 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the Model 737–10 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A16WE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 737–10 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 737–10 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Boeing Model 737–10 airplane will incorporate the following novel or unusual design feature:

Single-occupant oblique seats, with airbag devices and 3-point restraints, installed at 49 degrees relative to the airplane cabin bow-to-stern centerline.

Discussion

Section 25.785(d) requires that each occupant of a seat installed at an angle of more than 18 degrees, relative to bow-to-stern airplane cabin centerline, must be protected from head injury using a seatbelt and an energy-absorbing rest that supports the arms, shoulders, head, and spine; or using a seatbelt and shoulder harness designed to prevent the head from contacting any injurious object.

The Boeing Model 737–10 airplane single-occupant oblique seat installation, with airbag devices and 3-point restraints, is novel such that the current requirements do not adequately address airbag devices and protection of the occupant's neck, spine, torso, and legs for seating configurations that are positioned at an angle of 49 degrees from the airplane centerline. The seating configuration installation angle is beyond the installation-design limits of current special conditions issued for seat positions at angles between 18 degrees and 45 degrees. For example, at these angles, lateral neck bending and other injury mechanisms prevalent from a fully side-facing installation become a concern. Although special conditions no. 25–552–SC was issued for Boeing Model 787 airplane seats installed at 49 degrees in 2014, that document is no longer applicable because they were issued prior to the current oblique-seat special conditions that are based on the July 11, 2018, FAA policy statement PS–AIR–25–27, ''Technical Criteria for Approving Oblique Seats.'' These special conditions are based on the Boeing Model 787 airplane special conditions, with updates from that policy statement, and to align with the fully side-facing-seat policy statement PS–ANM–25–03–R1, ''Technical Criteria for Approving Side-Facing Seats.''

To provide a level of safety equivalent to that afforded to occupants of forward- and aft-facing seats, additional airworthiness standards, in the form of dynamic testing requirements, including both the injury criteria limits from the oblique-seat policy and the fully side-facing-seat policy through new special conditions, are necessary.

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

Discussion of Comments

The FAA issued Notice of Proposed Special Conditions No. 25–21–05–SC for the Boeing Model 737–10 airplane, which was published in the **Federal Register** on December 15, 2021 (86 FR 71183). The FAA received one comment from the Air Line Pilots Association, International, in support of the special conditions.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 737–10 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 737–10 airplanes.

In addition to the requirements of §§ 25.562 and 25.785, passenger seats with airbag devices and 3-point restraints, installed at an angle 49 degrees relative to the airplane cabin bow-to-stern centerline, must meet the following:

a. Head Injury Criteria (HIC)

HIC assessments are required only for head contact with the seat and other structure.

1. Compliance with § 25.562(c)(5) is required, except that, because an airbag device is present in addition to the 3-point restraint system, when the anthropomorphic test dummy (ATD) has no apparent contact with the seat and other structure but has contact with the airbag, a HIC score in excess of 1000 is acceptable, provided the HIC15 score (calculated in accordance with 49 CFR 571.208) for that contact is less than 700.

2. ATD head contact with the seat or other structure through the airbag, or contact subsequent to contact with the airbag, requires an HIC value not exceeding 1000.

3. The HIC value must not exceed 1000 in any condition in which the airbag does or does not deploy, up to the maximum severity pulse specified by the existing requirements.

4. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), any surface, airbag or otherwise, that provides support for the occupant head, must provide that support in a consistent manner regardless of occupant stature. Otherwise, additional HIC assessment tests may be needed.

b. Body-to-Wall/Furnishing Contact

If a seat is installed aft of structure, such as an interior wall or furnishing that does not provide a homogenous contact surface for the expected range of occupants and yaw angles, then additional analysis and tests may be required to demonstrate that the injury criteria are met for the area an occupant could contact. For example, different yaw angles could result in different injury considerations and airbag performance, and may require additional analysis, or separate tests may be necessary to evaluate performance.

c. Neck Injury Criteria

1. The seating system must protect the occupant from experiencing serious neck injury. The assessment of neck injury must be conducted with the airbag device activated, unless there is reason to also consider that the neck injury potential would be higher for impacts below the airbag-device deployment threshold.

2. Rotation of the head about its vertical axis, relative to the torso, is limited to 105 degrees in either direction from forward-facing.

3. The neck must not impact any surface that would produce concentrated loading on the neck.

4. Assess neck injury for fore and aft neck bending using the FAA Hybrid III ATD, as described in SAE 1999–01–1609, ''A Lumbar Spine Modification to the Hybrid III ATD for Aircraft Seat Tests,'' applying the following criteria: The N_{ij}, calculated in accordance with 49 CFR 571.208, must be below 1.0, where $N_{ij} = F_z/F_{zc} + M_y/M_{yc}$, and N_{ij} critical values are:

F_{zc} = 1,530 lbs (6805 N) for tension
F_{zc} = 1,385 lbs (6160 N) for compression
M_{yc} = 229 lb-ft (301 Nm) in flexion
M_{yc} = 100 lb-ft (136 Nm) in extension

In addition, peak upper-neck F_z must be below 937 lbs (4168 N) in tension and 899 lbs (3999 N) in compression.

5. When lateral neck bending is present, assess it using an ES–2re ATD as defined by 49 CFR part 572, subpart U. The data must be filtered at channel frequency class (CFC) 600 as defined in SAE Recommended Practice J211–1, ''Instrumentation for Impact Test Part 1—Electrionic Instrumentation:''

i. The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lbs (1,800 N).

ii. The upper-neck compression force at the O.C. location must be less than 405 lbs (1,800 N).

iii. The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in-lbs (115 Nm).

iv. The upper-neck resultant shear force at the O.C. location must be less than 186 lbs (825 N).

d. Spine and Torso Injury Criteria

1. The seating system must protect the occupant from experiencing spine and torso injury. The assessment of spine and torso injury must be conducted with the airbag device activated, unless it is necessary to also consider that the occupant-injury potential would be higher for impacts below the airbag-device deployment threshold.

2. Assess spine and torso injury, for oblique torso bending, using the FAA Hybrid III ATD, applying the following criteria:

i. The lumbar spine tension (F_z) cannot exceed 1,200 lbs (5338 N).

ii. Significant concentrated loading on the occupant's spine, in the area between the pelvis and shoulders during impact, including rebound, is not acceptable. During this type of contact, the interval for any rearward (X direction) acceleration exceeding 20g must be less than 3 milliseconds, as measured by the thoracic instrumentation specified in 49 CFR part 572, subpart E, filtered in accordance with SAE Recommended Practice J211–1.

3. When lateral torso bending is present, assess spine and torso injury using an ES–2re ATD, applying the following criteria:

i. Thoracic: The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Process the data as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214, title 49 of the CFR.

ii. Abdominal: The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs (2,500 N). Process the data as defined in FMVSS 571.214.

iii. Upper-torso support: The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright positions during impact.

e. Pelvic Criteria

1. The seating system must protect the occupant from experiencing pelvis injury.

2. Any part of the load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of the seat bottom seat-cushion supporting structure.

3. When pelvis contact with the armrest or surrounding interior components is present, assess it using an ES–2re ATD. The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lbs (6,000 N). Process the data as defined in FMVSS 571.214.

f. Femur Criteria

Limit axial rotations of the upper leg (about the z-axis of the femur, per SAE Recommended Practice J211–1) to 35 degrees from the nominal seated position. Evaluation during rebound does not need to be considered.

g. ATD and Test Condition

1. Perform longitudinal tests, conducted to measure the injury criteria above, using the FAA Hybrid III ATD or using the ES–2re ATD. Conduct the tests with the undeformed floor, at the most-critical yaw cases for injury, and with all lateral structural supports (*e.g.,* armrests or walls) installed.

2. For longitudinal tests conducted in accordance with § 25.562(b)(2), to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8), and these special conditions, to ensure proper loading of the seat by the occupant, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis of the ATD until rebound begins. No injury criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

3. If a seat installation includes adjacent items that are within contact range of an occupant, assess the injury potential of that contact. To make this assessment, tests may be conducted to include the actual contact item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed through a combination of tests with contact items having the same geometry as the actual contact item, but having stiffness characteristics that would create the worst case for injury, such as injuries due to both contact with the item and lack of support from the item.

4. Conduct the combined horizontal and vertical test, required by § 25.562(b)(1) and these special conditions, with the FAA Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent.

5. The design and installation of seatbelt buckles must prevent unbuckling due to applied inertial forces, or impact from seat occupant hands and arms, during an emergency landing.

h. Inflatable Airbag-Restraint System Special Conditions

An inflatable airbag-restraint system will be installed, and must meet the requirements of Special Conditions No. 25–386–SC, ''Boeing Model 737–600/–700/–700C/–800/–900 and 900ER Series

Airplanes; Seats With Inflatable Lapbelts,'' applicable to Boeing Model 737–10 series airplanes.

i. General Test Guidelines

1. The determination of the appropriate ATD to be used in assessing occupant injury (FAA Hybrid III or ES–2re) is based on the occupant kinematics at the selected test angle. At the +10-degree yaw angle, the occupant kinematics show that occupant injury tests, using both ATDs, are required.

2. Conduct vertical tests with the Hybrid II ATD or equivalent, with existing pass/fail criteria.

3. Conduct longitudinal structural tests with the Hybrid II ATD or equivalent, deformed floor, with 10 degrees yaw, and with all lateral structural supports (*e.g.,* armrests or walls) required to support the occupant.

4. Conduct longitudinal occupant-injury tests, as necessary, with the FAA Hybrid III ATD or ES–2re ATD, undeformed floor, yaw, and with all lateral structural supports (*e.g.,* armrests or walls) critically represented, and which are within contact range of the occupant.

i. Pass/fail injury assessments:

A. Perform HIC, fore and aft neck injury, spinal tension, and femur evaluations using the FAA Hybrid III ATD.

B. Perform lateral neck injury, thoracic, abdominal, pelvis, and femur evaluations using the ES–2re ATD.

5. For injury assessments accomplished by testing with the ES–2re ATD for longitudinal tests conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

i. ES–2re ATD Lateral Instrumentation:

The rib-module linear slides are directional (*i.e.,* deflection occurs in either a positive or negative ATD y-axis direction). Install the modules such that the moving end of the rib module is toward the front of the airplane. Install the three abdominal-force sensors such that they are on the side of the ATD toward the front of the airplane.

ii. ATD Clothing:

Clothe each ATD in form-fitting cotton-stretch garments with short- to full-length sleeves, mid-calf to full-length pants, and size 11E (45) shoes weighing about 2.5 lbs (1.1 kg), and having a heel height of about 1.5 inches (3.8 cm). The color of the clothing should be in contrast to the color of the restraint system and the background. The color of the clothing should be chosen to avoid overexposing the high-speed images captured during the test. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition, if desired.

iii. ATD Positioning:

A. Lower the ATD vertically into the seat while simultaneously:

(1) Aligning the midsagittal plane (a vertical plane through the midline of the body, dividing the body into right and left halves) to approximately the middle of the seat place.

(2) Keeping the upper legs horizontal by supporting them just behind the knees.

(3) Applying a horizontal x-axis direction (in the ES–2re ATD coordinate system) force of about 20 lbs (89 N) to the bottom rib of the ES–2re, to compress the seat-back cushion.

B. After all lifting devices have been removed from the ATD:

(1) Rock it slightly to settle it in the seat.

(2) Bend the knees of the ATD.

(3) Separate the knees by about 4 inches (100 mm).

(4) Set the ATD's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

(5) Position the ATD's arms at the joints' mechanical detent, to position them to an approximately 20- to 40-degree angle with respect to the torso.

(6) Position the feet such that the centerlines of the lower legs are approximately parallel.

Note: Seats installed via plinths or pallets must meet all applicable requirements. Compliance with the guidance contained in policy memorandum PS–ANM–100–2000–00123, ''Guidance for Demonstrating Compliance with Seat Dynamic Testing for Plinths and Pallets,'' dated February 2, 2000, is acceptable to the FAA.

Issued in Kansas City, Missouri, on February 8, 2022.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2022–03012 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0961; Project Identifier MCAI–2021–00924–A; Amendment 39–21935; AD 2022–03–18]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Operations) Limited and British Aerospace Regional Aircraft Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain British Aerospace (Operations) Limited and British Aerospace Regional Aircraft Model Jetstream Series 200, Jetstream Model 3101, and Jetstream Model 3201 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as a bent control rod within the gust lock system, which may enable both power levers to be pushed into the flight range with the gust lock lever fully engaged. This AD requires replacing the push rod assembly with a modified push rod assembly. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 21, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 21, 2022.

ADDRESSES: For service information identified in this final rule, contact BAE Systems (Operations) Ltd., Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 3300 488727; fax: +44 1292 675704; email: *RApublications@baesystems.com;* website: *https://www.baesystems.com/Businesses/RegionalAircraft/.* 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 (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0961.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0961; 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 MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4059; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered British Aerospace (Operations) Limited and British Aerospace Regional Aircraft Model Jetstream Series 200, Jetstream Model 3101, and Jetstream Model 3201 airplanes. The NPRM published in the **Federal Register** on November 12, 2021 (86 FR 62742). The NPRM was prompted by MCAI originated by the Civil Aviation Authority (CAA), which is the aviation authority for the United Kingdom. CAA has issued CAA AD G–2021–0005, dated August 3, 2021 (referred to after this as ''the MCAI''), to address an unsafe condition on certain serial-numbered BAE Systems (Operations) Ltd. Model Jetstream Series 3100 and Series 3200 airplanes. The MCAI states:

> On 8 October 2019, a Jetstream Series 3200 aircraft aborted take-off at a speed of approximately 130 kt and veered off the runway. The investigation into the serious incident concluded the take-off was initiated with an engaged Gust Lock Mechanism, resulting in a temporary loss of aircraft control. Damage was identified in the Gust Lock mechanism, which allowed both power levers to be moved beyond flight idle with the gust locks engaged.
>
> The serious incident investigation determined that a bent control rod within the gust lock system made it possible to move both power levers simultaneously to the max position, even though the gust locks were still engaged.
>
> The gust-lock system is designed to lock and prevent damage to the control surfaces when the aircraft is parked during gusting wind conditions. The system contains a mechanical baulk which prevents both power levers from being moved beyond the flight idle position when the gust locks are engaged.
>
> Three previous occurrences in which a bent control rod enabled both power levers to be moved simultaneously beyond the flight idle position while the gust lock system was engaged have been identified by the Type Certificate Holder. Service Bulletin 27–JM 5350 was first published in 1992 to introduce a stronger control rod.
>
> This condition, if not prevented, could lead to partial or total loss of aircraft control. To address this potential unsafe condition, this [CAA] AD mandates the installation of a modified push rod assembly.
>
> BAE Systems operating manuals contain pre-flight checks that are designed to ensure the gust locks are not engaged during take-off.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0961.

In the NPRM, the FAA proposed to require replacing the push rod assembly with a modified push rod assembly. The FAA is issuing this AD to address the unsafe condition on this product.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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 reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Jetstream Series 3100/3200 Service Bulletin 27–JM 5350, Revision 1, dated May 6, 1994. This service information specifies procedures for replacing push rod assembly part number (P/N) 137201E419 with push rod assembly P/N 137201E429. 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.

Differences Between This AD and the MCAI

The MCAI does not apply to the Model Jetstream Series 200, whereas this AD includes the Model Jetstream Series 200 because this model has an FAA type certificate and shares a similar type design in the affected area. The MCAI and service information apply to Model Jetstream Series 3100 and Jetstream Series 3200 airplanes, which are identified on the FAA type certificates as Jetstream Model 3101 and Jetstream Model 3201 airplanes, respectively.

Costs of Compliance

The FAA estimates that this AD affects 43 airplanes of U.S. registry.

The FAA estimates that it would take about 6 work-hours per airplane to replace the push rod assembly. The average labor rate is $85 per work-hour. Required parts would cost about $300 per airplane.

Based on these figures, the FAA estimates the cost on U.S. operators to be $34,830 or $810 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–03–18 British Aerospace (Operations) Limited and British Aerospace Regional Aircraft: Amendment 39–21935; Docket No. FAA–2021–0961; Project Identifier MCAI–2021–00924–A.

(a) Effective Date

This airworthiness directive (AD) is effective March 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to British Aerospace (Operations) Limited and British Aerospace Regional Aircraft Model Jetstream Series 200, Jetstream Model 3101, and Jetstream Model 3201 airplanes, serial numbers 1 through 927 and 929 through 936 inclusive, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2770, Gust Lock/Damper System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a bent control rod within the gust lock system, which may enable both power levers to be pushed into the flight range with the gust lock lever fully engaged. The FAA is issuing this AD to detect and correct bent push rod assemblies of the power lever baulk system. The unsafe condition, if not addressed, could result in loss of airplane control.

(f) Compliance

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

(g) Action

Within 2 years after the effective date of this AD, replace push rod assembly part number (P/N) 137201E419 with push rod assembly P/N 137201E429 by following the Accomplishment Instructions, sections 2.A. through 2.C. in Jetstream Series 3100/3200 Service Bulletin 27–JM 5350, Revision 1, dated May 6, 1994.

(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 and email to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(i) Related Information

(1) For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4059; email: *doug.rudolph@faa.gov.*

(2) Refer to Civil Aviation Authority (CAA) AD G–2021–0005, dated August 3, 2021, for more information. You may examine the CAA AD at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0961.

(j) 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) Jetstream Series 3100/3200 Service Bulletin 27–JM 5350, Revision 1, dated May 6, 1994.

(ii) [Reserved]

(3) For service information identified in this AD, contact BAE Systems (Operations) Ltd., Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 3300 488727; fax: +44 1292 675704; email: *RApublications@baesystems.com;* website: *https://www.baesystems.com/Businesses/RegionalAircraft/.*

(4) 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 (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 January 26, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–03030 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0095; Project Identifier AD–2022–00054–T; Amendment 39–21947; AD 2022–04–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes and Model 767 airplanes. This AD was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G C-Band), and a recent determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. The FAA is issuing this AD to address 5G C-Band interference that could result in increased flightcrew workload and could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane. This AD requires revising the limitations and operating procedures sections of the existing airplane flight manual (AFM) to incorporate specific operating procedures for landing distance calculations, instrument landing system (ILS) approaches, non-precision approaches, speedbrake deployment,

and go-around and missed approaches, when in the presence of 5G C-Band interference as identified by Notices to Air Missions (NOTAMs). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 14, 2022.

The FAA must receive comments on this AD by March 31, 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.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0095; 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, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: For Model 757 airplanes, contact Jeffrey Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; email: *jeffrey.w.palmer@faa.gov.* For Model 767 airplanes, contact Dean Thompson, Senior Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3165; email: *dean.r.thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In March 2020, the United States Federal Communications Commission (FCC) adopted final rules authorizing flexible use of the 3.7–3.98 GHz band for next generation services, including 5G and other advanced spectrum-based services.[1] Pursuant to these rules, C-Band wireless broadband deployment was permitted to occur in phases with the opportunity for operations in the lower 0.1 GHz of the band (3.7–3.8 GHz) in certain markets beginning on January 19, 2022. This AD refers to ''5G C-Band'' interference, but wireless broadband technologies, other than 5G, may use the same frequency band.[2] These other uses of the same frequency band are within the scope of this AD since they would introduce the same risk of radio altimeter interference as 5G C-Band.

The radio altimeter is an important aircraft instrument, and its intended function is to provide direct height-above-terrain/water information to a variety of aircraft systems. Commercial aviation radio altimeters operate in the 4.2–4.4 GHz band, which is separated by 0.22 GHz from the C-Band telecommunication systems in the 3.7–3.98 GHz band. The radio altimeter is more precise than a barometric altimeter and for that reason is used where aircraft height over the ground needs to be precisely measured, such as autoland, manual landings, or other low altitude operations. The receiver on the radio altimeter is typically highly accurate, however it may deliver erroneous results in the presence of out-of-band radio frequency emissions from other frequency bands. The radio altimeter must detect faint signals reflected off the ground to measure altitude, in a manner similar to radar. Out-of-band signals could significantly degrade radio altimeter functions during critical phases of flight, if the altimeter is unable to sufficiently reject those signals.

The FAA issued AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) (AD 2021–23–12) to address the effect of 5G C-Band interference on all transport and commuter category airplanes equipped with a radio (also known as radar) altimeter. AD 2021–23–12 requires revising the limitations section of the existing AFM to incorporate limitations prohibiting certain operations, which require radio altimeter data to land in low visibility conditions, when in the presence of 5G C-Band interference as identified by NOTAM. The FAA issued AD 2021–23–12 because radio altimeter anomalies that are undetected by the automation or pilot, particularly close to the ground (*e.g.,* landing flare), could lead to loss of continued safe flight and landing.

Since the FAA issued AD 2021–23–12, Boeing has continued to evaluate potential 5G C-Band interference on aircraft systems that rely on radio altimeter inputs. Boeing issued Boeing Multi Operator Message MOM–MOM–22–0022–01B(R2), dated February 1, 2022; Boeing Flight Crew Operations Manual Bulletin TBC–67 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; Boeing Flight Crew Operations Manual Bulletin TBCC–72 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; Boeing Flight Crew Operations Manual Bulletin TBC–86 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; and Boeing Flight Crew Operations Manual Bulletin TBC4–33 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; for Model 757 and 767 airplanes.

Based on Boeing's data, the FAA identified an additional hazard presented by 5G C-Band interference on The Boeing Company Model 757 and 767 airplanes. The FAA determined anomalies due to 5G C-Band interference may affect multiple other airplane systems using radio altimeter data, regardless of the approach type or weather. These anomalies may not be evident until very low altitudes. Impacted systems include, but are not limited to, autopilot flight director system; autothrottle system; flight controls; flight instruments; traffic alert and collision avoidance system (TCAS); ground proximity warning system (GPWS); and configuration warnings.

In the event of 5G C-Band interference, landing performance and flightcrew workload can be adversely impacted. This may have multiple effects, including:

- *Autopilot Flight Director System:* NO AUTOLAND Autopilot Status Annunciation may be shown; autopilot may not engage; autopilot disconnect may occur when LAND 2 or LAND 3 status is shown; the flight directors may provide erroneous guidance during ILS approaches; autoland runway alignment may not occur or may activate earlier or later than expected; autoland flare may not occur, however, FLARE mode can be erroneously annunciated on the FMA (flight mode annunciation); or go-around mode may not be available.
- *Autothrottle System:* Autothrottle can remain in SPD (speed) mode and may advance to maintain speed during flare instead of reducing the thrust to

[1] The FCC's rules did not make C-Band wireless broadband available in Alaska, Hawaii, and the U.S. Territories.

[2] The regulatory text of the AD uses the term ''5G C-Band'' which, for purposes of this AD, has the same meaning as ''5G'', ''C-Band'' and ''3.7–3.98 GHz.''

IDLE; or autothrottle may retard to idle prematurely in the flare.

- *Flight Controls:* Automatic speedbrake deployment may not occur after touchdown (for Model 757 and 767 models with Yaw Damper Stabilizer Trim module (YSM)); or SPEEDBRAKES EXT Caution message may not be available.
- *Flight Instruments:* The RA (radio altimeter) indication may not be shown; the RADIO minimums indications (flashing or turning amber) may not be shown or may be erroneous; the rising runway symbol may not be shown; the localizer deviation alert amber scale and flashing pointer may not be shown (deviation indications are still available); or the glideslope deviation alert amber scale and flashing pointer may not be shown (deviation indications are still available).
- *TCAS:* TCAS alerts may not be available (TCAS alerts that do occur will be valid); or TCAS inhibits for resolution advisories may be erroneous.
- *GPWS:* GPWS alerts may not be available or may be erroneous (although look-ahead terrain alerting remains available); radio altimeter-based altitude and minimums aural callouts during approach may not be available or erroneous; or windshear detection systems (predictive and reactive) may be inoperative.
- *Configuration Warnings:* Erroneous landing gear configuration warning may occur.
- *Considerations for Dispatch:* For Model 757 and 767 airplanes with YSM, adjust operational (time of arrival) landing distance for manual speedbrakes. For airplanes without YSM, no impacts on dispatch landing performance calculations.
- Other simultaneous flight deck effects associated with the 5G C-Band interference could increase pilot workload.

These effects may cause erroneous indications and annunciations, as well as conflicting information, being provided to the flightcrew during a critical phase of flight. This could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane, and is an unsafe condition.

To address this unsafe condition, this AD mandates procedures for operators to incorporate specific operating procedures for landing distance calculations, ILS approaches, non-precision approaches, speedbrake deployment, and go-around and missed approaches, when in the presence of 5G C-Band interference as identified by NOTAMs.

The FAA notes that for those airplanes equipped with YSM, the 5G interference to the radio altimeter creates an error to the YSM which causes the speedbrakes to not automatically deploy on landing; the flightcrew must manually deploy the speedbrakes when this occurs. Further, the additional landing distance calculation is required due to the differences in manual deployment versus automatic deployment during landing.

Finally, the FAA notes that AD 2021–23–12 remains in effect and thus prohibits certain ILS approaches. Thus, this AD addresses procedures applicable only to those ILS approaches not prohibited by AD 2021–23–12.

The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires revising the limitations and operating procedures sections of the existing AFM to incorporate specific operating procedures for landing distance calculations, ILS approaches, non-precision approaches, speedbrake deployment, and go-around and missed approaches, when in the presence of 5G C-Band interference as identified by NOTAMs.

Compliance With AFM Revisions

Section 91.9 prohibits any person from operating a civil aircraft without complying with the operating limitations specified in the AFM. FAA regulations also require operators to furnish pilots with any changes to the AFM (14 CFR 121.137) and pilots in command to be familiar with the AFM (14 CFR 91.505).

Interim Action

The FAA considers this AD to be an interim action. If final action is later 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 forgoing notice and comment prior to adoption of this rule because the FAA determined that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 5G C-Band, and a determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. This increased flightcrew workload could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane. The urgency is based on the hazard presented by 5G C-Band interference, and on C-Band wireless broadband deployment, which began in phases with operations on January 19, 2022. 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 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–2022–0095 and Project Identifier AD–2022–00054–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 for Model 757 airplanes should be sent to Jeffrey Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; email: *jeffrey.w.palmer@faa.gov.* Submissions containing CBI for Model 767 airplanes should be sent to Dean Thompson, Senior Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3165; email: *dean.r.thompson@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

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 notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 1,138 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision	1 work-hour × $85 per hour = $85	$0	$85	$96,730

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:

2022–04–05 The Boeing Company: Amendment 39–21947; Docket No. FAA–2022–0095; Project Identifier AD–2022–00054–T.

(a) Effective Date

This airworthiness directive (AD) is effective February 14, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company airplanes identified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model 757–200, –200PF, –200CB, and –300 series airplanes.

(2) Model 767–200, –300, –300F, –400ER, and –2C series airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by a determination that radio altimeters cannot be relied upon to perform their intended function if they experience interference from wireless broadband operations in the 3.7–3.98 GHz frequency band (5G C-Band), and a determination that, during approach, landings, and go-arounds, as a result of this interference, certain airplane systems may not properly function, resulting in increased flightcrew workload while on approach with the flight director, autothrottle, or autopilot engaged. The FAA is issuing this AD to address 5G C-Band interference that could result in increased flightcrew workload and could lead to reduced ability of the flightcrew to maintain safe flight and landing of the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

(1) Within 2 days after the effective date of this AD: Revise the Limitations Section of the existing AFM to include the information specified in figure 1 to paragraph (g)(1) of

this AD. This may be done by inserting a copy of figure 1 to paragraph (g)(1) of this AD into the Limitations Section of the existing AFM.

BILLING CODE 4910–13–P

Figure 1 to paragraph (g)(1) – *AFM Limitations Revision*

(Required by AD 2022-04-05)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around
The following limitations are required for dispatch or release to airports, and approach, landing, and go-around on runways, in U.S. airspace in the presence of 5G C-Band wireless broadband interference as identified by NOTAM (NOTAMs will be issued to state the specific airports or approaches where the radio altimeter is unreliable due to the presence of 5G C-Band wireless broadband interference).

Approach, Landing, and Go-Around
Operators must use the Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around procedure contained in the Operating Procedures Section of this AFM.

(2) Within 2 days after the effective date of this AD: Revise the Operating Procedures Section of the existing AFM to include the information specified in figure 2 to paragraph (g)(2) of this AD. This may be done by inserting a copy of figure 2 to paragraph (g)(2) of this AD into the Operating Procedures Section of the existing AFM.

Figure 2 to paragraph (g)(2) – *AFM Operating Procedures Revision*

(Required by AD 2022-04-05)

Radio Altimeter 5G C-Band Interference, Approach, Landing, and Go-Around

Landing Distance Calculations
For airplanes with Yaw Damper Stabilizer Trim module (YSM), adjust the operational (time of arrival) landing distance for manual speedbrake deployment if MAX MANUAL braking is required. When using autobrakes, no correction is needed since the calculations already take into account that manual speedbrake deployment may be needed.

ILS Approaches
For ILS approaches not prohibited by AD 2021-23-12, disconnect the autopilot and autothrottle, and place both flight director switches to OFF prior to glideslope intercept.

Non-Precision Approaches
Non-precision instrument approaches can be conducted using VNAV or V/S with flight directors, autopilot, and autothrottle to published minimums.

During Landing
For airplanes with Yaw Damper Stabilizer Trim module (YSM), if MAX MANUAL braking is required, manually deploy the speedbrake if it does not deploy automatically.

During Go-Around and Missed Approach
If the flight director is ON, cycle to OFF, then ON, as needed.
If the flight director is OFF, turn ON, as needed.

BILLING CODE 4910–13–C

Note 1 to paragraph (g)(2): Guidance for accomplishing the actions required by paragraph (g)(2) of this AD can be found in Boeing Multi Operator Message MOM–MOM–22–0022–01B(R2), dated February 1, 2022; Boeing Flight Crew Operations Manual Bulletin TBC–67 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; Boeing Flight Crew Operations Manual Bulletin TBCC–72 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; Boeing Flight Crew Operations Manual Bulletin TBC–86 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022; and Boeing Flight Crew Operations Manual Bulletin TBC4–33 R1, ''Radio Altimeter Anomalies due to 5G C-Band Wireless Broadband Interference in the United States,'' dated February 1, 2022.

(h) Alternative Methods of Compliance (AMOCs)

(1) For Model 757 airplanes: The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.* For Model 767 airplanes: The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(2) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) AMOCs approved for AD 2021–23–12, Amendment 39–21810 (86 FR 69984, December 9, 2021) providing relief for specific radio altimeter installations are approved as AMOCs for the provisions of this AD.

(i) Related Information

(1) For more information about this AD for Model 757 airplanes, contact Jeffrey W. Palmer, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5351; email: *jeffrey.w.palmer@faa.gov.*

(2) For more information about this AD for Model 767 airplanes, contact Dean Thompson, Senior Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St.,

Des Moines, WA 98198; phone and fax: 206–231–3165; email: *dean.r.thompson@faa.gov.*

(3) For service information identified in this AD that is not incorporated by reference, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110 SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(j) Material Incorporated by Reference

None.

Issued on February 7, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–03144 Filed 2–10–22; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0715; Project Identifier AD–2021–00259–A; Amendment 39–21932; AD 2022–03–15]

RIN 2120–AA64

Airworthiness Directives; Various Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for various airplanes modified with certain configurations of Garmin G3X Touch Electronic Flight Instrument System installed per Supplemental Type Certificate (STC) No. SA01899WI or Garmin GI 275 Multi-Function Display (MFD) installed per STC No. SA02658SE. This AD was prompted by a report of a fuel quantity disparity between the amount of fuel indicated and the actual amount of fuel. This AD requires modifying the resistive fuel probe interface. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 21, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 21, 2022.

ADDRESSES: For service information identified in this final rule, contact Garmin International, Garmin Aviation Support, 1200 E 151st Street, Olathe, KS 66062; phone: (866) 739–5687; email: *avionics@garmin.com;* website: *https://fly.garmin.com/fly-garmin/support/.* 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 (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0715.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0715; 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, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin Marks, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4153; email: *kevin.marks@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to various airplanes modified with certain configurations of Garmin G3X Touch Electronic Flight Instrument System installed per STC No. SA01899WI or Garmin GI 275 MFD installed per STC No. SA02658SE. The NPRM published in the **Federal Register** on August 27, 2021 (86 FR 48070). The NPRM was prompted by notification of a Piper production line issue with the installation of a Garmin G3X Touch Electronic Flight Instrument System installed under STC No. SA01899WI. After calibration and fueling the airplane to a known level, the flight crew noted that the fuel quantity indicator displayed a higher level of fuel.

The Garmin G3X Touch Electronic Flight Instrument System, when interfaced with the Garmin GEA 24 (Engine Airframe Adapter) for display of the fuel quantity, uses a 1K ohm resistor inline between the GEA 24 and the airplane fuel quantity resistance style sending unit (float). This resistor provides lightning protection to the fuel tank as required by 14 CFR 23.954.

Use of the 1K resistor causes a GEA error when the GEA 24 or resistor is subjected to significantly hotter or colder temperatures than the temperature at which the fuel gauges were calibrated during installation. The farther the actual (ambient) temperature of the GEA 24 or resistor is from the temperature of the fuel quantity calibration, the larger the error. The lower the operating resistance of the fuel sending unit, the larger the error. The largest errors occur in installations with fuel sending units having an operational range less than 100 ohms. The Garmin GI 275 MFDs installed under STC No. SA02658SE, when interfaced with the Garmin GEA 24 for display of the fuel quantity, is also subject to this unsafe condition.

The displayed fuel quantity can have an error as much as four gallons/fuel tank with the display indicating four gallons with an empty tank. In the NPRM, the FAA proposed to require modifying the resistive fuel probe interface. The FAA is issuing this AD to prevent fuel starvation and engine shutdown, which could result in the inability to arrive at the destination airport or a suitable alternative airport.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Garmin. The following presents the comments received on the NPRM and the FAA's response to each comment.

Requests Regarding Background Information

Garmin requested the FAA correct certain information in the preamble. In the NPRM, the FAA stated that use of the 1K resistor causes a GEA error when the resistor temperature changes. According to Garmin, using the 1K resistor causes a GEA error when the GEA 24 temperature changes. Garmin further noted that 1k resistors are installed near the GEA 24 plug and are exposed to the same ambient temperatures.

The FAA agrees with correcting the preamble and has changed this final rule to clarify that a GEA error results from the GEA 24 being subjected to significantly hotter or colder temperatures than the temperature at which the fuel gauges were calibrated during installation. The FAA disagrees with the requested changes regarding the location of the resistors. The commenter's request is not supported by the information in the installation manual, which does not require the resistor to be installed near the GEA 24.

Garmin also requested that the FAA remove the exact error amount (*i.e.,* four

gallons) between the displayed fuel quantity and the actual amount of fuel. Garmin stated that due to variations in different aircraft system configurations, this amount could be misleading.

Removing the reference to 4 gallons would minimize the potential magnitude of the error and the need for AD action. The FAA did not change this AD based on this comment.

Garmin noted a typographical error in that the NPRM referred to ''MFDS'' instead of ''MFDs.''

The FAA agrees and has corrected all references to MFDs accordingly.

Request Regarding Unsafe Condition

Garmin requested that the FAA change the description of the inevitable consequence of the unsafe condition. In the NPRM, the FAA stated the unsafe condition, if not addressed, could result in fuel starvation and engine shutdown with consequent loss of airplane control. Garmin stated that this incorrectly implies that loss of airplane control is the inevitable consequence of fuel starvation and engine shutdown. Garmin requested the FAA revise the preamble to state that loss of airplane control is one of many possible outcomes.

The FAA agrees that loss of control is not an inevitable result of fuel starvation. In the context of this event, the end level effect is the loss of powered flight to the destination airport. Accordingly, the FAA has revised the background section of the preamble and the unsafe condition paragraph of the AD to reflect that fuel starvation and engine shutdown could result in the inability to arrive at the destination airport or a suitable alternative airport.

Request Regarding Applicability

Garmin requested the FAA revise the AD to remove several airplane models that are not subject to the unsafe condition. Garmin listed these models as follows: The Boeing Company Model AT–6 (Navy SNJ–2), AT–6A (Navy SNJ–3), AT–6B, AT–6C (Navy SNJ–4), AT–6D (Navy SNJ–5), AT–6F (Navy SNJ–6), BC- 1A, Navy SNJ–7, and T–6G; Cessna Aircraft Company Model T–50 (Army AT–17 and UC–78 series, Navy JRC–1); Costruzioni Aeronautiche Tecnam S.P.A. Model P2006T; Daher Aircraft Design, LLC (type certificate previously held by Quest Aircraft Design, LLC) Model Kodiak 100; EADS–PZL Warszawa-Okęcie S.A. Model PZL–104 Wilga 80; Helio Alaska, Inc. Model H–800; Howard Aircraft Foundation Model DGA–15J (Army UC–70B), DGA–15P (Army UC–70, Navy GH–1, GH–2, GH–3, NH–1), and DGA–15W; Textron Aviation Inc. Model G17S; Thrush Aircraft, LLC Model 600 S–2D, S2R, S2R–R1340, S2R-Rl820, S2R–R3S, and S2R–T34; and Waco Aircraft Company Model YMF airplanes.

The FAA agrees and has revised the list of applicable models accordingly.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for the changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Garmin Mandatory STC Service Bulletin 2134, Revision A, and Garmin Mandatory STC Service Bulletin 2135, Revision A, both dated April 23, 2021. This service information specifies procedures for modifying the GEA 24 resistive fuel probe interface. These documents are distinct since they apply to different STCs. 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.

Other Related Service Information

The FAA also reviewed Master Drawing List (MDL) Document No. 005–01320–00, Revision 10, for STC No. SA01899WI; and MDL Drawing No. 005–01208–41, Revision 10, for STC No. SA02658SE; both dated April 23, 2021. This service information contains the type design data for installation of the STC. MDL Document No. 005–01320–00, Revision 10, dated April 23, 2021, introduces a new fuel quantity interface and configuration to eliminate the unsafe condition described previously.

Costs of Compliance

The FAA estimates that this AD affects 920 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per airplane	Cost on U.S. operators
Modify fuel probe interface and recalibrate the fuel system.	8 work-hours × $85 per hour = $680	$10	$690	$634,800

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–03–15 Various Airplanes: Amendment 39–21932; Docket No. FAA–2021–0715; Project Identifier AD–2021–00259–A.

(a) Effective Date

This airworthiness directive (AD) is effective March 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all serial numbers of the airplane models listed in table 1 to paragraph (c), certificated in any category, that are either:

(1) Modified with a Garmin G3X Touch Electronic Flight Instrument System under Supplemental Type Certificate (STC) No. SA01899WI, installed in accordance with Master Drawing List (MDL) Document No. 005–01320–00, Revision 9 or earlier, interfaced with a Garmin Engine Adapter GEA 24 connected to resistive fuel probes; or

(2) Modified with a Garmin GI 275 Multi-Function Display under STC No. SA02658SE, installed in accordance with MDL Revision 9 or earlier, interfaced with a Garmin Engine Adapter GEA 24 connected to resistive fuel probes.

Note 1 to paragraph (c): Garmin Mandatory STC Service Bulletin No. 2134, Revision A, and Garmin Mandatory STC Service Bulletin No. 2135, Revision A, both dated April 23, 2021, contain information for how to determine if your airplane has a resistive probe interface.

BILLING CODE 4910–13–P

Table 1 to Paragraph (c)—*Affected Airplanes*

Type Certificate Holder	Airplane Model
Aermacchi S.p.A.	F.260, F.260B, F.260C, F.260D, F.260E, F.260F, S.205-18/F, S.205-18/R, S.205-20/F, S.205-20/R, S.205-22/R, S.208, and S.208A
Aeronautica Macchi S.p.A./Aerfer-Industrie Aerospaziali Meridionali S.p.A.	AM-3
Aerostar Aircraft Corporation	PA-60-600 (Aerostar 600), PA-60-601 (Aerostar 601), PA-60-601P (Aerostar 601P), and PA-60-602P (Aerostar 602P)
Air Tractor, Inc.	AT-401
Alexandria Aircraft, LLC	14-19, 14-19-2, 14-19-3, 14-19-3A, 17-30, 17-30A, 17-31, 17-31A, 17-31ATC, and 17-31TC
Alpha Aviation Concept Limited	R2160
American Champion Aircraft Corp.	402, 7EC, 7ECA, 7FC, 7GC, 7GCA, 7GCAA, 7GCB, 7GCBA, 7GCBC, 7KCAB, 8GCBC, and 8KCAB
Aviat Aircraft Inc.	A-1, A-1A, A-1B, A-1C-180, A-1C-200, S-1S, S-1T, S-2, S-2A, S-2B, S-2C, and S-2S
Bellanca Aircraft Corporation	14-13, 14-13-2, 14-13-3, and 14-13-3W
B-N Group Ltd.	BN-2 and BN-2A
CEAPR (type certificate previously held by APEX Aircraft)	R3000/160
Cirrus Design Corporation	SR20, SR22, and SR22T
Commander Aircraft Corporation	112, 112B, 112TC, 112TCA, 114, 114A, 114B, and 114TC
Cougar Aircraft Corporation	GA-7
Cub Crafters, Inc.	CC19-180
De Havilland Support Limited	B.121 Series 1, B.121 Series 2, and B.121 Series 3
Diamond Aircraft Industries Inc.	DA20-A1, DA20-C1, DA 40, DA 40 F, and DA 40 NG
Discovery Aviation, Inc.	XL-2

Dynac Aerospace Corporation	Aero Commander Model 100, Aero Commander Model 100-180, Aero Commander Model 100A, Volaire Model 10, and Volaire Model 10A
EADS-PZL Warszawa-Okęcie S.A.	PZL-104M Wilga 2000, PZL-104MA Wilga 2000, PZL-KOLIBER 150A, and PZL-KOLIBER 160A
Extra Flugzeugproduktions- und Vertriebs-GmbH	EA-300, EA-300/200, EA-300/L, EA 300/LC, and EA-300/S
FLS Aerospace (Lovaux) Ltd.	OA7 Optica Series 300
Found Brothers Aviation Limited	FBA Centennial 100
Frakes Aviation	G-44 (Army OA-14, Navy J4F-2) (including SCAN Type 30) and G-44A
FS 2003 Corporation	PA-12 and PA-12S
Fuji Heavy Industries, Ltd.	FA-200-160, FA-200-180, and FA-200-180AO
GA8 Airvan (Pty) Ltd.	GA8 and GA8-TC 320
Gomolzig Flugzeug- und Maschinenbau GmbH	AS 202/15 BRAVO, AS 202/18A BRAVO, and AS 202/18A4 BRAVO
GROB Aircraft SE	G 115, G 115A, G 115B, G 115C, G 115C2, G 115D, and G 115D2
Helio Aircraft Corporation	15A and 20
Helio Alaska, Inc.	H-250, H-295 (USAF U10D), H-391 (USAF YL-24), H-391B, H-395 (USAF L-28A or U-10B), H-395A, H-700, and HT-295
Interceptor Aircraft Inc.	200, 200A, 200B, 200C, 200D, and 400
The King's Engineering Fellowship	44 Angel, 4500-300, and 4500-300 Series II
Legend Aviation & Marine, LLC	UC-1
Luscombe Aircraft Corporation	8, 8A, 8B, 8C, 8D, 8E, 8F, and T-8F
Maule Aerospace Technology, Inc.	Bee Dee M-4, M-4, M-4-180C, M-4-180S, M-4-180T, M-4-180V, M-4-210, M-4-210C, M-4-210S, M-4-210T, M-4-220, M-4-220C, M-4-220S, M-4-220T, M-4C, M-4S, M-4T, M-5-180C, M-5-200, M-5-210C, M-5-210TC, M-5-220C, M-5-235C, M-6-180, M-6-235, M-7-235, M-7-235A, M-7-235B, M-7-235C, M-7-260, M-7-260C, M-

	7-420A, M-7-420AC, M-8-235, M-9-235, MT-7-235, MT-7-260, MT-7-420, MX-7-160, MX-7-160C, MX-7-180, MX-7-180A, MX-7-180AC, MX-7-180B, MX-7-180C, MX-7-235, MX-7-420, MXT-7-160, MXT-7-180, and MXT-7-180A
Micco Aircraft Company, Inc.	MAC-125C, MAC-145, MAC-145A, and MAC-145B
Mooney Aircraft Corporation	M22
Mooney International Corporation	M20, M20A, M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K, M20L, M20M, M20R, M20S, and M20TN
Nardi S.A.	FN-333
Pacific Aerospace Ltd.	FBA-2C, FBA-2C1, FBA-2C2, and FBA-2C3
Piaggio & C.	P.136-L and P.136-L1
Pilatus Aircraft Limited	PC-6, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6-H1, and PC-6-H2
Piper Aircraft, Inc.	PA-16, PA-16S, PA-18, PA-18-105 (Special), PA-18-125 (Army L-21A), PA-18-135, PA-18-150, PA-18A, PA-18A-135, PA-18A-150, PA-18AS-125, PA-18AS-135, PA-18AS-150, PA-18S, PA-18S-105 (Special), PA-18S-125, PA-18S-135, PA-18S-150, PA-19 (Army L-18C), PA-19S, PA-20, PA-20-115, PA-20-135, PA-20S, PA-20S-115, PA-20S-135, PA-22, PA-22-108, PA-22-135, PA-22-150, PA-22-160, PA-22S-135, PA-22S-150, PA-22S-160, PA-23, PA-23-160, PA-23-235, PA-23-250, PA-23-250 (Navy UO-1), PA-24, PA-24-250, PA-24-260, PA-24-400, PA-28-140, PA-28-150, PA-28-151, PA-28-160, PA-28-161, PA-28-180, PA-28-181, PA-28-201T, PA-28-235, PA-28-236, PA-28R-180, PA-28R-200, PA-28R-201, PA-28R-201T, PA-28RT-201, PA-28RT-201T, PA-28S-160, PA-28S-180, PA-30, PA-31-300, PA-32-260, PA-32-300, PA-32-301, PA-32-301FT, PA-32-301T, PA-32-301XTC, PA-32R-300, PA-32R-301 (HP), PA-32R-301 (SP), PA-32R-301T, PA-32RT-300, PA-32RT-300T, PA-32S-300, PA-34-200,

	PA-34-200T, PA-34-220T, PA-38-112, PA-39, PA-40, PA-44-180, PA-44-180T, PA-46-310P, PA-46-350P, PA-46R-350T, and PA-E23-250
Polskie Zaklady Lotnicze Spolka zo.o	PZL M26 01
Revo, Incorporated	Colonial Model C-1, Colonial Model C-2, Lake Model 250, Lake Model LA-4, and Lake Model LA-4-200
Robert E. Rust, Jr.	DHC-1 Chipmunk Mk 21, DHC-1 Chipmunk Mk 22, and DHC-1 Chipmunk Mk 22A
RUAG Aerospace Services GmbH	Do 27 Q-6, Do 28 A-1, and Do 28 B-1
Sierra Hotel Aero, Inc.	Navion (Army L-17A), Navion A (Army L-17B and L-17C), Navion B, Navion D, Navion E, Navion F, Navion G, and Navion H
Sky Enterprises, Inc.	RC-3
Slingsby Aviation Ltd.	T67M260
SOCATA (type certificate currently held by Daher)	MS 880B, MS 885, MS 892A-150, MS 892E-150, MS 893A, MS 893E, MS 894A, MS 894E, Rallye 100S, Rallye 150 ST, Rallye 150 T, Rallye 235C, Rallye 235 E, TB9, TB 10, TB 20, TB 21, and TB 200
Spartan Aircraft Company	7W (Army UC-71)
Swift Museum Foundation, Inc.	GC-1A and GC-1B
Symphony Aircraft Industries Inc.	OMF-100-160 and SA 160
Textron Aviation Inc.	19A, 23, 35, 36, 50, 58, 76, 77, 95, 120, 140, 140A, 150, 150A, 150B, 150C, 150D, 150E, 150F, 150G, 150H, 150J, 150K, 150L, 150M, 152, 170, 170A, 170B, 172, 172A, 172B, 172C, 172D, 172E, 172F (USAF T-41A), 172G, 172H (USAF T-41A), 172I, 172K, 172L, 172M, 172N, 172P, 172Q, 172R, 172RG, 172S, 175, 175A, 175B, 175C, 177, 177A, 177B, 177RG, 180, 180A, 180B, 180C, 180D, 180E, 180F, 180G, 180H, 180J, 180K, 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 182R, 182S, 182T, 185, 185A, 185B, 185C, 185D, 185E, 190, 195,

	195A, 195B, 206, 206H, 207, 207A, 210, 210-5 (205), 210-5A (205A), 210A, 210B, 210C, 210D, 210E, 210F, 210G, 210H, 210J, 210K, 210L, 210M, 210N, 210R, 310, 310A, 310B, 310C, 310D, 310E, 310F, 310G, 310H, 310I, 310J, 310J-1, 310K, 310L, 310N, 310P, 310Q, 310R, 320, 320-1, 320A, 320B, 320C, 320D, 320E, 320F, 335, 336, 337, 337A, 337B, 337C, 337D, 337E, 337F, 337G, 337H, 340, 340A, 35-33, 35-A33, 35-B33, 35-C33, 35-C33A, 35R, 45 (Military YT-34), 56TC, 58A, 58PA, 58TCA, 95-55, 95-A55, 95-B55, 95-B55A, 95-B55B, 95-C55, 95-C55A, A150K, A150L, A150M, A152, A185E, A185F, A23, A23-19, A23-24, A23A, A24, A24R, A35, A36, A36TC, A45 (Military T-34A, B-45), A56TC, B19, B23, B24R, B35, B36TC, B50, B95, B95A, C23, C24R, C35, C50, D17S, D35, D45 (Military T-34B), D50E-5990, D55, D55A, D95A, E310H, E310J, E33, E33A, E33C, E35, E55, E55A, E95, F150F, F150G, F150H, F150J, F150K, F150L, F150M, F152, F172D, F172E, F172F, F172G, F172H, F172K, F172L, F172M, F172N, F172P, F177RG, F182P, F182Q, F33, F33A, F33C, F337E, F337F, F337G, F337H, F35, FA150K, FA150L, FA150M, FA152, FP172D, FR172E, FR172F, FR172G, FR172H, FR172J, FR172K, FR182, FRA150L, FRA150M, FT337E, FT337F, FT337GP, FT337HP, G33, G35, G36, G58, H35, J35, K35, LC40-550FG, LC41-550FG, LC42-550FG, M19A, M337B, M35, N35, P172D, P206, P206A, P206B, P206C, P206D, P206E, P210N, P210R, P337H, P35, R172E, R172F, R172G, R172H, R172J, R172K, R182, S35, SD17S, T182, T182T, T206H, T207, T207A, T210F, T210G, T210H, T210J, T210K, T210L, T210M, T210N, T210R, T240, T303, T310P, T310Q, T310R, T337B, T337C, T337D, T337E, T337F, T337G, T337H, T337H-SP, TP206A, TP206B, TP206C, TP206D, TP206E, TR182, TU206A, TU206B,

	TU206C, TU206D, TU206E, TU206F, TU206G, U206, U206A, U206B, U206C, U206D, U206E, U206F, U206G, V35, V35A, and V35B
Topcub Aircraft, Inc.	CC18-180 and CC18-180A
True Flight Holdings LLC	AA-1, AA-1A, AA-1B, AA-1C, AA-5, AA-5A, AA-5B, and AG-5B
Twin Commander Aircraft LLC	500, 500-A, 520, 560, and 560-A
Univair Aircraft Corporation	108, 108-1, 108-2, 108-3, 108-5, 415-C, 415-CD, 415-D, A-2, A2-A, E, F-1, F-1A, G, and M10
Viking Air Limited	DHC-2 Mk.I, DHC-2 Mk.II, DHC-2 Mk.III, and TR-1
Vulcanair S.p.A.	P.68, P.68 "Observer," P.68B, P.68C, P.68C-TC, P.68R, P.68 Observer 2, P.68TC Observer, and Vulcanair V1.0
WACO Classic Aircraft Corporation	2T-1A, 2T-1A-1, and 2T-1A-2
WSK PZL Mielec and OBR SK Mielec	PZL M20 03
W.Z.D. Enterprises Inc	11A and 11E
Zenair Ltd.	CH2000
Zlin Aircraft a.s.	Z-143L, Z-242L, and Zlin 526L

BILLING CODE 4910–13–C

(d) Subject

Joint Aircraft System Component (JASC) Code 2841, Fuel Quantity Indicator.

(e) Unsafe Condition

This AD was prompted by reports of fuel quantity disparities between the amount of fuel indicated and the actual amount of fuel. The FAA is issuing this AD to ensure that the amount of fuel indicated is the amount of fuel available. The unsafe condition, if not addressed, could result in fuel starvation and engine shutdown which could result in the inability to arrive at the destination airport or a suitable alternative airport.

(f) Compliance

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

(g) Action

Within 100 hours time-in-service after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, modify the fuel probe interface by following the Modification Instructions in Garmin Mandatory STC Service Bulletin 2134, Revision A, or Garmin Mandatory STC Service Bulletin 2135, Revision A, both dated April 23, 2021, whichever is applicable.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i) of this AD.

(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

For more information about this AD, contact Kevin Marks, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4153; email: *kevin.marks@faa.gov* or *Wichita-COS@faa.gov.*

(j) 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) Garmin Mandatory STC Service Bulletin 2134, Revision A, dated April 23, 2021.

(ii) Garmin Mandatory STC Service Bulletin 2135, Revision A, dated April 23, 2021.

(3) For service information identified in this AD, contact Garmin International, Garmin Aviation Support, 1200 E 151st Street, Olathe, KS 66062; phone: (866) 739–5687; email: *avionics@garmin.com;* website: *https://fly.garmin.com/fly-garmin/support/.*

(4) 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 (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 January 25, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–03000 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0667; Project Identifier MCAI–2021–00580–T; Amendment 39–21931; AD 2022–03–14]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report that during type certification activity, it was identified that certain monitoring software was incorrectly implemented in the braking control system (BCS) certification standard. This AD requires installing (updating) certain software for the braking and steering system, 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 is effective March 21, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 21, 2022.

ADDRESSES: For 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. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0667.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0667; 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 mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0127, dated May 12, 2021 (EASA AD 2021–0127) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on August 18, 2021 (86 FR 46164). The NPRM was prompted by a report that during type certification activity, it was identified that certain monitoring software was incorrectly implemented in the BCS certification standard. The NPRM proposed to require installing (updating) certain software for the braking and steering system, as specified in EASA AD 2021–0127.

The FAA is issuing this AD to address in-service limitations related to the braking and steering system, which, under specific degraded conditions, could lead to a reduction in braking performance and potentially lead to a runway excursion, and result in damage to the airplane and injury to passengers. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Delta Airlines (DAL) and the Air Line Pilots Association, International (ALPA). ALPA supported the NPRM without change. The following presents the DAL comments received on the NPRM and the FAA's response to each comment.

Request To Revise the Costs of Compliance Paragraph

DAL requested that the NPRM include the labor hours associated with the prerequisite service bulletins referenced in Airbus Service Bulletin A350–32–P037, dated July 30, 2019 (which is referenced in EASA AD 2021–0127). DAL stated that, depending on airplane configuration, the actions in the four prerequisite service bulletins may need to be done before doing the actions specified in referenced Airbus Service Bulletin A350–32–P037, dated July 30, 2019.

The FAA acknowledges the commenter's request. If an operator accomplishes prerequisite service information specified in Airbus Service Bulletin A350–32–P037, dated July 30, 2019 (which is referenced in EASA AD 2021–0127) there is an additional cost to those prerequisite service information. It is estimated that an operator may incur an additional 15 work-hours and up to an additional $1,275 in parts cost to accomplish the prerequisite service information. However, since accomplishment of the prerequisite service information may not be required to accomplish the required actions of this AD, these costs may not apply to all operators. The FAA has added this explanation to the Cost of Compliance paragraph in this AD, but not the additional costs for accomplishing the prerequisite service information.

Request To Add a Certain AD to Paragraph (b) of the Proposed AD

DAL requested that the FAA add AD 2017–18–18, Amendment 39–19027 (82 FR 42579, September 11, 2017) (AD 2017–18–18) to paragraph (b) of the proposed AD (AD 2017–18–18 requires repetitive on-ground power cycles to reset the internal timer). DAL stated that Airbus Service Bulletin A350–42–P010, dated August 14, 2018, is a required prerequisite for doing the actions in Airbus Service Bulletin A350–32–P037, dated July 30, 2019 (which is referenced in EASA AD 2021–0127), and therefore, is a requirement for doing the actions in the proposed AD. DAL commented that Airbus Service Bulletin A350–42–P010, dated August 14, 2018, was approved for use in alternative method of compliance (AMOC) AIR–676–19–298, dated July 22, 2019, for accomplishing the requirements in paragraph (g) of AD 2017–18–18.

The FAA disagrees with the request. Paragraph (b) of this AD identifies superseded or revised ADs, or other ADs if the requirements of those ADs are affected (*i.e.,* this AD terminates all or part of another AD). AD 2017–18–18 does not meet any of those conditions, and therefore, is not considered an affected AD. The FAA has not changed this AD in this regard.

Request To Revise the Applicability

DAL requested that the FAA revise the applicability of the proposed AD. DAL stated that the applicability should be limited to Model A350–941 and –1041 airplanes having manufacturer serial numbers listed in the applicability paragraph of Airbus Service Bulletin A350–32–P037, dated July 30, 2019 (which is referenced in EASA AD 2021–0127). DAL commented that the applicability needs focus on the finite list of manufacturer serial numbers that were not produced with the required modification. DAL also commented that the applicability paragraph specified in EASA AD 2021–0127 has an exception for airplanes that have embodied Airbus modification 114420 in production. DAL stated that this logic requires the operator to actively verify that the actions in EASA AD 2021–0127 have been accomplished on every new airplane in production.

The FAA disagrees with revising the applicability of this AD. The applicability of this AD was coordinated with EASA and determined to be necessary to address those airplanes affected by the unsafe condition. In addition, the applicability of an AD takes precedence over the effectivity listed in any service bulletin. Excluding airplanes in the applicability ensures that operators make a definitive determination of whether an airplane is affected. Once an airplane has been delivered to an operator, it is the operator's responsibility to ensure compliance with the AD actions. The FAA has not changed this AD in this regard.

Request To Add an Exception to the Proposed AD

DAL requested that the FAA add an exception to paragraph (h) of the proposed AD to specify that the required for compliance (RC) language in paragraph (i)(3) of the proposed AD applies to paragraphs 3.C. and 3.E. of the Accomplishment Instructions of Airbus Service Bulletin A350–32–P037, dated July 30, 2019 (which is referenced in EASA AD 2021–0127). DAL stated that testing the airplane to verify if the correct software is installed as specified in paragraph 3.E. of the Accomplishment Instructions of Airbus Service Bulletin A350–32–P037, dated July 30, 2019, meets the intended level of safety in the proposed AD.

DAL also requested that paragraphs 3.A., 3.B., 3.D., 3.F., and 3.G of the Accomplishment Instructions of Airbus Service Bulletin A350–32–P037, dated July 30, 2019, not be included as RC. DAL stated that these paragraphs are not required to establish the intended level of safety in the proposed AD. DAL commented that no paragraphs in the service bulletin were identified as RC.

The FAA agrees to add an exception to paragraph (h)(3) of this AD for the reasons provided above. The FAA has revised paragraph (h) of this AD to specify that only paragraphs 3.C. and 3.E. of the Accomplishment Instructions of Airbus Service Bulletin A350–32–P037, dated July 30, 2019, must be accomplished if Airbus Service Bulletin A350–32–P037, dated July 30, 2019, is used for the modification required by EASA AD 2021–0127.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0127 describes procedures for installing (updating) serviceable software for the braking and steering system. Serviceable software includes BCS software (SW) standard (STD) S5B, wheel steering control system (WSCS) SW STD S5B, and landing gear extension and retraction system (LGERS) SW STD S5A. 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.

Costs of Compliance

The FAA estimates that this AD affects 17 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
Up to 4 work-hours × $85 per hour = Up to $340	Up to $1,650	Up to $1,990	Up to $33,830.

* If an operator accomplishes prerequisite service information specified in Airbus Service Bulletin A350–32–P037, dated July 30, 2019 (which is referenced in EASA AD 2021–0127) there is an additional cost to those prerequisite service information.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–03–14 Airbus SAS: Amendment 39–21931; Docket No. FAA–2021–0667; Project Identifier MCAI–2021–00580–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0127, dated May 12, 2021 (EASA AD 2021–0127).

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report that during type certification activity, it was identified that certain monitoring software was incorrectly implemented in the braking control system (BCS) certification standard. The FAA is issuing this AD to address in-service limitations related to the braking and steering system, which, under specific degraded conditions, could lead to a reduction in braking performance and potentially lead to a runway excursion, and result in damage to the airplane and injury to passengers.

(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 2021–0127.

(h) Exceptions to EASA AD 2021–0127

(1) Where EASA AD 2021–0127 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0127 does not apply to this AD.

(3) Where EASA AD 2021–0127 requires modifying the airplanes and specifies the modification ''can be accomplished in accordance with the instructions of the SB,'' for this AD, replace the text ''the instructions of the SB'' with ''paragraphs 3.C. and 3.E. of the Accomplishment Instructions of the SB.''

(i) 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 (j) 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 Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

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

(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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0127, dated May 12, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0127, 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 January 25, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02995 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0845; Project Identifier MCAI–2021–00651–T; Amendment 39–21929; AD 2022–03–12]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–200, –300, –800, and –900 series airplanes; and Model A340–200, –300, –500, and –600

series airplanes. This AD was prompted by reports that the instructions on the doghouse door lock placard are unclear and incomplete. This AD requires replacing the placard with an improved instruction placard, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also prohibits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 21, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 21, 2022.

ADDRESSES: For 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. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0845.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0845; 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 mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0136, dated June 4, 2021 (EASA AD 2021–0136) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS A330–201, A330–202, A330–203, A330–223, A330–243, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, A330–343, A330–841, A330–941, A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, A340–542, A340–642, and A340–643 airplanes. Model A340–542 and A340–643 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A330–200, –300, –800, and –900 series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. The NPRM published in the **Federal Register** on October 7, 2021 (86 FR 55747). The NPRM was prompted by reports that the instructions on the doghouse door lock placard are unclear and incomplete. The NPRM proposed replacing the placard with an improved instruction placard, as specified in EASA AD 2021–0136. The NPRM also proposed to prohibit the installation of affected parts under certain conditions.

The FAA is issuing this AD to address possible incorrect operation of the doghouse door lock due to unclear and incomplete handling instructions on the door placard installed near the lock. This condition, if not addressed, could lead to failure of the latch, which could block the door in the closed position and prevent access to the emergency equipment inside the doghouse. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

The FAA received an additional comment from Delta Air Lines (DAL). The following presents the comments received on the NPRM and the FAA's response.

Request for Exception to Required Part

DAL requested an exception to allow the use of internally manufactured placards having the same text and font size as the Diehl placard, part number (P/N) 1500500–00C844, specified in the Diehl Aviation service information referenced in EASA AD 2021–0136. DAL stated that if one of the installed Diehl placards were missing or damaged, alternate placard sources may be able to provide replacements faster while maintaining an acceptable level of safety.

The FAA does not agree with the requested exception. This AD mandates the use of a placard, P/N 1500500–00C844, specified in the Diehl Aviation service information. Operators may request to use an alternate placard through the alternative method of compliance (AMOC) process specified in the provisions of paragraph (i)(1) of this AD. Operators should provide justification that such an alternate placard meets all airworthiness requirements, not only that the placard would have the same text and font size. This AD has not been changed with regard to this request.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0136 specifies procedures for replacing the instruction placard on the passenger cabin doghouse door. EASA AD 2021–0136 also prohibits the installation of doghouses with incorrect instruction placards.

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.

Costs of Compliance

The FAA estimates that this AD affects 62 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
2 work-hours × $85 per hour = $170.	Up to $95 per placard	Up to $265 per placard	Up to $16,430.*

* Assuming one placard per product. The number of placards on an airplane depends on the passenger configuration and varies from operator to operator.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–03–12 Airbus SAS: Amendment 39–21929; Docket No. FAA–2021–0845; Project Identifier MCAI–2021–00651–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes, certificated in any category, as identified in paragraphs (c)(1) through (8) of this AD.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(3) Model A330–841 airplanes.

(4) Model A330–941 airplanes.

(5) Model A340–211, –212, and –213 airplanes.

(6) Model A340–311, –312, and –313 airplanes.

(7) Model A340–541 airplanes.

(8) Model A340–642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by reports that the instructions on the doghouse door lock placard are unclear and incomplete. The FAA is issuing this AD to address possible incorrect operation of the doghouse door lock due to unclear and incomplete handling instructions on the door placard installed near the lock. This condition, if not addressed, could lead to failure of the latch, which could block the door in the closed position and prevent access to the emergency equipment inside the doghouse.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0136, dated June 4, 2021 (EASA AD 2021–0136).

(h) Exceptions to EASA AD 2021–0136

(1) Where EASA AD 2021–0136 refers to its effective date, this AD requires using the effective date of this AD.

(2) Although EASA AD 2021–0136 specifies to ''remove the placard and install an improved handling instructions placard on each affected part,'' this AD requires replacing the placard on each affected part with an improved handling instructions placard.

(3) The ''Remarks'' section of EASA AD 2021–0136 does not apply to this AD.

(i) 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 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) 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 Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided

the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov*.

(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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0136, dated June 4, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0136, 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 January 24, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–02996 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1016; Project Identifier AD–2021–00625–E; Amendment 39–21936; AD 2022–03–19]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) Passport 20–17BB1A, Passport 20–18BB1A, and Passport 20–19BB1A model turbofan engines. This AD was prompted by a report of a manufacturing quality escape that requires a reduction to the life limit of certain high-pressure turbine (HPT) rotor stage 1 disks. This AD requires revising the airworthiness limitations section (ALS) of the existing maintenance manual and the operator's existing approved continuous airworthiness maintenance program (CAMP) to incorporate a reduced life limit for certain HPT rotor stage 1 disks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 21, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 21, 2022.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215, United States; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. 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–2021–1016.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1016; 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, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *Scott.M.Stevenson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE Passport 20–17BB1A, Passport 20–18BB1A, and Passport 20–19BB1A model turbofan engines. The NPRM published in the **Federal Register** on November 29, 2021 (86 FR 67669). The NPRM was prompted by a report from GE of a manufacturing quality escape that identified a certain population of HPT rotor stage 1 disks that did not meet the design specification. GE determined that machining and inspection of the affected HPT rotor stage 1 disks was inconsistent with the engineering drawing. Further analysis by GE determined that the nonconformance at the forward and aft hooks of the HPT rotor stage 1 disks may cause the disks to fail prematurely and, therefore, the life limit of the affected HPT rotor stage 1 disks requires reduction. As a result, GE decreased the life limit of the affected HPT rotor stage 1 disks. In the NPRM, the FAA proposed to require revising the ALS of the GE Passport 20 Line Maintenance Manual, GEK 112062, and the operator's existing approved CAMP to incorporate a reduced life limit for certain HPT rotor stage 1 disks. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment, from GE. The following presents the comment received on the NPRM and the FAA's response.

Request To Update Date of Service Information

GE requested that the FAA correct the date of GE Service Bulletin (SB) PASSPORT20–A–72–00–0116–00A–930A–D, Issue 002, in this AD from July 22, 2021, to August 13, 2021. GE commented that the NPRM included the date of the draft SB and not the date of the published SB. GE stated that there was no change to the document content between the draft and publication dates.

The FAA agrees and has revised this AD as requested.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE SB PASSPORT20–A–72–00–0116–00A–930A–D, Issue 002, dated August 13, 2021. This service information describes procedures for removing a certain population of HPT rotor stage 1 disks from service and provides serial numbers of the affected HPT rotor stage 1 disks. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 78 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS of the Line Maintenance Manual and the operator's existing approved CAMP.	1 work-hour × $85 per hour = $85.	$0	$85	$6,630

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–03–19 General Electric Company: Amendment 39–21936; Docket No. FAA–2021–1016; Project Identifier AD–2021–00625–E.

(a) Effective Date

This airworthiness directive (AD) is effective March 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) Passport 20–17BB1A, Passport 20–18BB1A, and Passport 20–19BB1A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a manufacturing quality escape that requires a reduction to the life limit for certain high-pressure turbine (HPT) rotor stage 1 disks. The FAA is issuing this AD to prevent failure of the HPT rotor stage 1 disk. The unsafe condition, if not addressed, could result in uncontained disk release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Action

Within 120 days after the effective date of this AD, revise the airworthiness limitations section of the existing maintenance manual for your engine and the operator's existing approved continuous airworthiness maintenance program by adding Figure 1 to paragraph (g) of this AD.

Figure 1 to Paragraph (g) – Passport 20-17BB1A, Passport 20-18BB1A, and Passport 20-19BB1A Model Turbofan Engines and Life Limits

Part Name	Part Number	Affected Population by Serial Number	Life Cycles for Passport 20-17BB1A	Life Cycles for Passport 20-18BB1A	Life Cycles for Passport 20-19BB1A
HPT Rotor Stage 1 Disk	2471M11P02	Table 1 of GE Service Bulletin PASSPORT 20-A-72-00-0116-00A-930A-D, Issue 002, dated August 13, 2021	3,800	3,800	3,800

Note 1 to paragraph (g): Where Figure 1 to paragraph (g) refers to ''Life Cycles,'' for the purpose of this AD, this refers to life cycles since new.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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) of this AD. Information may be emailed to: *ANE-AD-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

For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *Scott.M.Stevenson@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) General Electric Company Service Bulletin PASSPORT20–A–72–00–0116–00A–930A–D, Issue 002, dated August 13, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *www.ge.com.*

(4) You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. 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 January 26, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–03008 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0019; Project Identifier MCAI–2021–00371–R; Amendment 39–21930; AD 2022–03–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2014–21–03, which applied to Airbus Helicopters Model AS332L2 helicopters with a certain yaw control damper support (support) installed. AD 2014–21–03 required repetitively inspecting the support attachment points for a crack. Since the FAA issued AD 2014–21–03, an improved (reinforced) support was developed. This AD retains the inspection requirements of AD 2014–21–03 and requires installing the improved support 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 March 1, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of March 1, 2022.

The FAA must receive comments on this AD by March 31, 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 material that is incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may view the EASA material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. The EASA material is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0019.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0019; 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 EASA 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

The FAA issued AD 2014–21–03, Amendment 39–17995 (79 FR 63809, October 27, 2014) (AD 2014–21–03), for Airbus Helicopters Model AS332L2 helicopters with a support part number (P/N) 332A25–1334–00 installed. AD 2014–21–03 required for helicopters with 3,900 hours time-in-service (TIS) or more, within 100 hours TIS and thereafter at intervals not exceeding 825 hours TIS, inspecting each support at the four attachment points for a crack. If there is a crack, AD 2014–21–03 required replacing the support before further flight. AD 2014–21–03 was prompted by EASA AD 2014–0080, dated March 27, 2014 (EASA AD 2014–0080), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters, formerly Eurocopter, Eurocopter France, Aerospatiale, Model AS332L2 helicopters with support P/N 332A25–1334–00 installed. EASA advised of several reports of cracks on the two front attachment points of the support, and that subsequent investigations determined pilot actions on the yaw pedals could generate detrimental loading conditions on the support attachment points and initiate a crack. This condition, if not addressed could lead to structural failure of the support, detachment of the damper unit, possible blocking of the yaw flight control channel, and reduced control of the helicopter. Accordingly, EASA AD 2014–0080 required repetitive inspections of the support and, if there is a crack, replacing the support.

Actions Since AD 2014–21–03 Was Issued

Since the FAA issued AD 2014–21–03 Airbus Helicopters developed an improved support with improved fatigue and load carrying capabilities and issued service information that provides instructions for modifying the support.

Accordingly, EASA issued AD 2021–0086, dated March 24, 2021 (EASA AD 2021–0086), which superseded EASA AD 2014–0080. EASA AD 2021–0086 retains the inspection requirements of EASA AD 2014–0080 and requires replacement of any affected part with a serviceable part. EASA AD 2014–0086 also expands the applicability to include all Model AS332L2 helicopters. See EASA AD 2021–0086 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0086 specifies procedures for repetitively inspecting the support at the four attachment points in accordance with the instructions of the service information. EASA AD 2021–0086 also specifies procedures for modifying the helicopter by replacing an affected part with an improved part, which is a terminating action for the repetitive inspections. EASA AD 2021–0086 prohibits installing any affected part on any helicopter.

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.

Other Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin No. AS332–05.00.98, Revision 1, dated February 10, 2021 (ASB AS332–05.00.98 Rev 1), which specifies procedures to inspect for cracks on the support at the four attachments of the yaw damper. ASB AS332–05.00.98 Rev 1 specifies if any crack is found, replace the support by modifying your helicopter in accordance with the modification service bulletin.

The FAA also reviewed Airbus Helicopters Service Bulletin SB No. AS332–67.00.52, Revision 0, dated March 2, 2020, which specifies procedures to modify your helicopter by replacing the support with a new improved support (modification 0728207).

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is 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.

Explanation of Retained Requirements

Although this AD does not explicitly restate the requirements of AD 2014–21–03, this AD retains certain requirements of AD 2014–21–03. Those requirements are referenced in EASA AD 2021–0086, which in turn, is referenced in paragraph (g) of this AD.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2021–0086, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and EASA AD 2021–0086.''

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 certain 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 2021–0086 is incorporated by reference in this AD. This AD therefore, requires compliance with EASA AD 2021–0086 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 2021–0086 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 2021–0086. Service information specified in EASA AD 2021–0086 that is required for compliance with it will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0019 after the FAA final rule is published.

Differences Between This AD and EASA AD 2021–0086

Where Note 1 of EASA AD 2021–0086 identifies the flight hours (FH) specified in Table 1 of EASA AD 2021–0086 are those accumulated by the affected part on April 3, 2014 (the effective date of EASA AD 2014–0080), since first installation on a helicopter, this AD requires using the total hours TIS accumulated by the helicopter as of the effective date of this AD. Where Table 1 of EASA AD 2021–0086 requires a compliance time of within 100 FH after April 3, 2014, this AD requires a compliance time of within 100 hours TIS after the effective date of this AD. Where paragraph (3) of EASA AD 2021–0086 allows credit for inspections of a helicopter as required in paragraph (1) of its AD if the inspections are accomplished before the effective date of its AD, this AD allows credit for the initial inspection of a helicopter as required by paragraph (1) of EASA AD 2021–0086, if accomplished before the effective date of this AD.

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.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reasons, 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.

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–2022–0019; Project Identifier MCAI–2021–00371–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

There are no costs of compliance with this AD because there are no helicopters with these type certificates on the U.S. Registry.

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:

■ a. Removing Airworthiness Directive 2014–21–03, Amendment 39–17995 (79 FR 63809, October 27, 2014); and

■ b. Adding the following new airworthiness directive:

AD 2022–03–13 Airbus Helicopters: Amendment 39–21930; Docket No. FAA–2022–0019; Project Identifier MCAI–2021–00371–R.

(a) Effective Date

This airworthiness directive (AD) is effective March 1, 2022.

(b) Affected ADs

This AD replaces AD 2014–21–03, Amendment 39–17995 (79 FR 63809, October 27, 2014) (AD 2014–21–03).

(c) Applicability

This AD applies to all Airbus Helicopters Model AS332L2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6700, Rotorcraft Flight Control.

(e) Unsafe Condition

This AD was prompted by several reports of cracks in the front attachment points of certain yaw control damper supports (supports) and the subsequent development of an improved (reinforced) support with improved fatigue and load carrying capabilities. The FAA is issuing this AD to prevent failure of the support, separation of the yaw damper unit, blocking of the yaw flight control channel, and reduced control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0086, dated March 24, 2021 (EASA AD 2021–0086).

(h) Exceptions to EASA AD 2021–0086

(1) Where EASA AD 2021–0086 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0086 does not apply to this AD.

(3) Where EASA AD 2021–0086 requires compliance in terms of flight hours (FH), this AD requires using hours time-in-service (TIS).

(4) Where the service information referenced in EASA AD 2021–0086 specifies using a light source and a mirror to ensure that there are no cracks on the support at the four attachments of the yaw damper, and ''if there is any doubt'' removing the yaw damper, this AD requires the yaw damper to be removed prior to that inspection.

(5) Where the service information referenced in EASA AD specifies discarding certain parts, this AD requires removing those parts from service.

(6) Where Table 1 of EASA AD 2021–0086 requires a compliance time of within 100 FH after April 3, 2014 (the effective date of EASA AD 2014–0080, dated March 27, 2014 [EASA AD 2014–0080]), this AD requires a compliance time of within 100 hours TIS after the effective date of this AD.

(7) Where Note 1 of EASA AD 2021–0086 identifies the FH specified in Table 1 are those accumulated by support part number 332A25–1334–00 on April 3, 2014 (the effective date of EASA AD 2014–0080) since first installation on a helicopter, this AD requires using the total hours TIS accumulated by the helicopter as of the effective date of this AD.

(8) Where paragraph (3) of EASA AD 2021–0086 allows credit for inspections accomplished before the effective date of its AD, this AD allows credit for the initial inspection if accomplished before the effective date of this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0086 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact 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.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0086, dated March 24, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0086, contact the 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 service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0019.

(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 January 24, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–03113 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0831; Project Identifier AD–2021–00712–E; Amendment 39–21933; AD 2022–03–16]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) GEnx–1B and GEnx–2B model turbofan engines. This AD was prompted by the manufacturer's report of two findings of sheared compressor discharge pressure (CDP) bolts during engine shop visits. This AD requires initial and repetitive inspections of the CDP bolted joint and, depending on the findings, a piece part inspection of the stages 6–10 compressor rotor spool, CDP seal, and high-pressure turbine (HPT) rotor stage 1 disk. As a terminating action, this AD requires operators to reassemble the CDP bolted joint using a specific torque wrench. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 21, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 21, 2022.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com;* website: *www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. 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–2021–0831.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0831; 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, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; fax: (781) 238–7199; email: *Alexei.T.Marqueen@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GE GEnx–1B and GEnx–2B model turbofan engines. The NPRM published in the **Federal Register** on October 28, 2021 (86 FR 59667). The NPRM was prompted by a report from the manufacturer of two findings of sheared CDP bolts at engine shop visits during disassembly of the CDP bolted joint on GEnx–1B70/75/P2 and GEnx–2B67/P model turbofan engines. Subsequent investigation by the manufacturer determined that the fracture and liberation of the CDP bolts was caused by the inadvertent over-torque condition of the bolts during assembly and reassembly with a 11C4525P01 torque fixture or during assembly with a 11C4629P01 torque wrench. In one finding, the fractured CDP bolt caused damage to the stages 6–10 compressor rotor spool, CDP seal, and HPT rotor stage 1 disk. In the NPRM, the FAA proposed to require initial and repetitive inspections of the CDP bolted joint and, depending on the findings, a piece part inspection of the stages 6–10 compressor rotor spool, CDP seal, and HPT rotor stage 1 disk. As a terminating action, the NPRM also proposed to require operators to reassemble the CDP bolted joint using a 11C4888P01 torque wrench. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from four commenters. The commenters were American Airlines (American), The Boeing Company (Boeing), GE Aviation, and United Airlines Engineering (UAL Engineering). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Add Engine Serial Numbers to Applicability Paragraph

American requested that the FAA clarify paragraph (c), Applicability, by adding the affected engine serial numbers (S/Ns). American explained that operators do not have visibility to the engines that were assembled or reassembled by GE with the 11C4525P01 torque fixture, or engines that were assembled with the 11C4629P01 torque wrench. American noted that due to this lack of visibility, operators will need to rely on GE to provide the affected engine S/Ns, either in GEnx–1B Service Bulletin (SB) 72–0495 R00, dated May 11, 2021 (GEnx–1B SB 72–0495) or in response to an inquiry, which would place an excessive burden on the operators.

The FAA disagrees with adding engine S/Ns to the Applicability paragraph of this AD. According to GE, each maintenance, repair and overhaul (MRO) shop will have a record of what date the new 11C4888P01 torque wrench was implemented for use, and any CDP bolted joint reassembled at an engine shop visit prior to that implementation date would have used the prior 11C4525P01 torque fixture. Thus, for engines that have had an engine shop visit, each operator will be able to determine if their engine is affected based on the date of the last engine shop visit and the date that the particular MRO shop implemented the new tool. For engines that have not had an engine shop visit, Paragraph 1.A, Table A of GEnx–1B SB 72–0495 and Paragraph 1.A, Table A of GE GEnx–2B SB 72–0433 R00, dated May 11, 2021 define which engine S/Ns are affected based on production records.

Request To Add Clarifying Language to Required Actions

GE Aviation requested that the FAA update the language in paragraph (g)(2) of this AD to incorporate a reference to the terminating action contained in paragraph (h) of this AD. GE supported its request for change by explaining the additional reference will ensure clear understanding of the requirements.

The FAA disagrees with updating paragraph (g)(2) of this AD to incorporate a reference to the terminating action in paragraph (h) of this AD. Referencing paragraph (h) within paragraph (g)(2) is unnecessary.

Request To Add Language Requiring Accomplishment of Terminating Action

UAL Engineering requested that the FAA incorporate the terminating action in paragraph (h) of this AD as a requirement in paragraph (g)(3) of this

AD. UAL Engineering explained that requiring the terminating action within paragraph (g)(3) of this AD would eliminate any ambiguity involving the reassembly of the CDP bolted joint, which could potentially lead to the use of a non-conforming tool and additional repetitive inspections.

The FAA disagrees with revising the required action as proposed by UAL Engineering. MRO shops no longer use the 11C4525P01 torque fixture. All MRO shops have implemented the use of the updated 11C4888P01 torque wrench. Therefore, if a piece part inspection is required pursuant to paragraph (g)(3) of this AD, the CDP bolted joint will be reassembled with the updated 11C4888P01 torque wrench. The non-conforming tool will not be used, and therefore will not drive any additional repetitive inspections after a reassembly is performed following a piece part inspection.

Support for the AD

Boeing expressed support for the AD as written.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE GEnx–1B SB 72–0495 R00, dated May 11, 2021 (GE GEnx–1B SB 72–0495) and GE GEnx–2B SB 72–0433 R00, dated May 11, 2021 (GEnx–2B SB 72–0433). GEnx–1B SB 72–0495 describes procedures for the inspection of the CDP bolted joint components on GEnx–1B model turbofan engines. GEnx–2B SB 72–0433 describes procedures for the inspection of the CDP bolted joint components on GEnx–2B model turbofan engines. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 320 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of CDP bolted joint	1 work-hour × $85 per hour = $85	$0	$85	$27,200

The FAA estimates the following costs to do any necessary additional inspections that would be required based on the results of the proposed inspection. The agency has no way of determining the number of aircraft that might need these inspections.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Piece part inspection of stages 6–10 compressor rotor spool.	56 work-hours × $85 per hour = $4,760	$0	$4,760
Piece part inspection of CPD seal	22 work-hours × $85 per hour = $1,870	0	1,870
Piece part inspection of HPT rotor stage 1 disk	59 work-hours × $85 per hour = $5,015	0	5,015

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–03–16 General Electric Company: Amendment 39–21933; Docket No. FAA–2021–0831; Project Identifier AD–2021–00712–E.

(a) Effective Date

This airworthiness directive (AD) is effective March 21, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GEnx–1B64, GEnx–1B64/P1, GEnx–1B64/P2, GEnx–1B67, GEnx–1B67/P1, GEnx–1B67/P2, GEnx–1B70, GEnx–1B70/75/P1, GEnx–1B70/75/P2, GEnx–1B70/P1, GEnx–1B70/P2, GEnx–1B70C/P1, GEnx–1B70C/P2, GEnx–1B74/75/P1, GEnx–1B74/75/P2, GEnx–1B76/P2, GEnx–1B76A/P2, GEnx–2B67, GEnx–2B67B, and GEnx–2B67/P model turbofan engines with a compressor discharge pressure (CDP) bolted joint assembled or reassembled with the 11C4525P01 torque fixture or assembled with the 11C4629P01 torque wrench.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report from the manufacturer of two findings of sheared CDP bolts during engine shop visits. The FAA is issuing this AD to prevent fracture of the CDP bolt. The unsafe condition, if not addressed, could result in damage to the engine and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) At the next engine shop visit after the effective date of this AD, perform an inspection of the CDP bolted joint for fractured or missing material using the Accomplishment Instructions, paragraph 3.A.(2) of GE GEnx–1B Service Bulletin (SB) 72–0495 R00, dated May 11, 2021 (GEnx–1B SB 72–0495) (for GEnx–1B models) or Accomplishment Instructions, paragraph 3.A.(2) of GE GEnx–2B SB 72–0433 R00, dated May 11, 2021, (GEnx–2B SB 72–0433) (for GEnx–2B models).

(2) Repeat the inspection required by paragraph (g)(1) of this AD at every engine shop visit.

(3) If a fractured or missing bolt or nut is found during any inspection required by paragraph (g)(1) or (2) of this AD, before further flight, perform piece part inspections of the stages 6–10 compressor rotor spool, CDP seal, and high-pressure turbine rotor stage 1 disk in accordance with the Instructions for Continued Airworthiness.

(h) Terminating Action

As terminating action to the repetitive inspections required by paragraph (g)(2) of this AD, reassemble the CDP bolted joint using the 11C4888P01 torque wrench, in accordance with the Accomplishment Instructions, paragraph 3.B.(1) of GEnx–1B SB 72–0495 (for GEnx–1B models) or the Accomplishment Instructions, paragraph 3.B.(1) of GEnx–2B SB 72–0433 (for GEnx–2B models).

(i) Definition

For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving a module exposure in which the mid fan shaft removal exposes the CDP bolted joint.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 ECO Branch, send it to the attention of the person identified in paragraph (k) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(k) Related Information

For more information about this AD, contact Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; fax: (781) 238–7199; email: *Alexei.T.Marqueen@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) General Electric Company (GE) GEnx–1B Service Bulletin (SB) 72–0495 R00, dated May 11, 2021.

(ii) GE GEnx–2B SB 72–0433 R00, dated May 11, 2021.

(3) For GE service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com*; website: *www.ge.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. 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 January 25, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–03040 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 220203–0039]

RIN 0694–AI70

Addition of Certain Entities to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends the Export Administration Regulations (EAR) by adding seven entities under seven entries to the Entity List. These seven entities have been determined by the U.S. Government to be acting contrary to the foreign policy or national security interests of the United States and will be listed on the Entity List under the destinations of the People's Republic of China (China), Pakistan, and the United Arab Emirates (UAE). This final rule also modifies four existing entries on the Entity List under the destination of China.

DATES: This rule is effective February 14, 2022.

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

SUPPLEMENTARY INFORMATION:

Background

Entity List

The Entity List (supplement no. 4 to part 744 of the EAR) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States. The EAR (15 CFR parts 730–774) impose additional license requirements on, and

limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity is identified in the ''License Review Policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

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

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add seven entities under seven entries to the Entity List. The entities are located in the People's Republic of China (China), Pakistan, and the UAE. Of the seven entries, one is located in China, five are located in Pakistan, and one is located in the UAE.

The ERC determined to add Chemtech International (Private) Limited, Engineering Materials and Equipment Co., Inspectech, Value Additions (Pvt) Ltd., and X-Cilent Engineering, all under the destination of Pakistan, and Odyssey General Trading FZC, under the destination of the UAE, to the Entity List under §§ 744.2, which describes restrictions on certain nuclear end-users, and 744.11(b) of the EAR.

In addition, the ERC determined to add Jiangsu Tianyuan Metal Powder Co. Ltd. to the Entity List under §§ 744.11(b), 744.20 (license requirements that apply to certain sanctioned entities), and 746.4 (North Korea) of the EAR. The entity is added to the Entity List under the destination of China based on a determination that was made by the U.S. Department of State (84 FR 23627) that it engaged in activities that warranted the imposition of measures pursuant to Section 3 of the Iran, North Korea, and Syria Nonproliferation Act (Pub. L. 106–178).

Pursuant to §§ 744.2, 744.11(b), 744.20, and 746.4 of the EAR, the ERC determined that the conduct of the above-described entities raises sufficient concerns that prior review, via the imposition of a license requirement for exports, reexports, or transfers (in-country) of all items subject to the EAR involving these seven entities and the possible issuance of license denials or the possible imposition of license conditions on shipments to these entities, will enhance BIS's ability to prevent violations of the EAR or otherwise protect U.S. national security or foreign policy interests.

For the entities added to the Entity List in this final rule, BIS imposes a license requirement that applies to all items subject to the EAR. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule. For the one entity being added to the Entity List under China, BIS imposes a license review policy of a presumption of denial. For the five entities being added under Pakistan and one entity being added under the UAE, BIS imposes the license review policy set forth in § 744.2(d) of the EAR. The acronym ''a.k.a.,'' which is an abbreviation of 'also known as,' is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters and transferors in identifying entities on the Entity List.

For the reasons described above, this final rule adds the following seven entities under seven entries to the Entity List and includes, where appropriate, aliases:

China

- Jiangsu Tianyuan Metal Powder Co. Ltd.

Pakistan

- Chemtech International (Private) Limited;
- Engineering Materials and Equipment Co.;
- Inspectech;
- Value Additions (Pvt) Ltd.; *and*
- X-Cilent Engineering

United Arab Emirates

- Odyssey General Trading FZC

Revisions to the Entity List

This rule revises the Entity List entries of Huawei Cloud Brazil, under the destination of Brazil, and Huawei Technologies Co. Ltd. and Wavelet, under the destination of China. This final rule corrects a typographical error in the city name for the address listed for the existing entity for Huawei Cloud Brazil. This final rule also revises the entry for Wavelet by adding the punctuation necessary to delineate between the addresses that are already listed. This corrects an error made in the original publication of the rule adding Wavelet to the Entity List, which failed to separate the entry's address in Shenzhen, China, from its address in Hong Kong, with the appropriate punctuation.

Additionally, BIS is revising the Entity List to mitigate confusion, by combining the two existing entries entitled ''Huawei Technologies Co. Ltd.'' This change does not alter BIS policy regarding the entries. Currently, the Entity List includes one entry for ''Huawei Technologies Co., Ltd.'' at a Hong Kong address, and a second entry for the same entity with addresses of multiple other locations in China. This rule combines the two entries into one. As the confusion created by the two entries kept the **Federal Register** from implementing changes to a previous rule (86 FR 71557), this rule also adds three aliases (HMN Technologies, Huahai Zhihui Technology Co., Ltd., and HMN Tech) under one of Huawei Technologies Co., Ltd.'s affiliated entities, Huawei Marine Networks, to the newly combined entry.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were enroute aboard a carrier to a port of export, reexport, or transfer (in-country), on February 14, 2022, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

Export Control Reform Act of 2018

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

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of

reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and commodity classification, and carries a burden estimate of 29.6 minutes for a manual or electronic submission for a total burden estimate of 31,835 hours. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

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

4. Pursuant to section 1762 of the Export Control Reform Act of 2018, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

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

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 744—[AMENDED]

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

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. Under BRAZIL by revising the entry for ''Huawei Cloud Brazil'';

■ b. Under CHINA, PEOPLE'S REPUBLIC OF:

■ i. By removing the entries for ''Huawei Technologies Co. Ltd.'' and ''Huawei Technologies Co., Ltd.'';

■ ii. By adding in alphabetical order entries for ''Huawei Technologies Co., Ltd.'' and ''Jiangsu Tianyuan Metal Powder Co. Ltd.''; and

■ iii. By revising the entry for ''Wavelet Electronics'';

■ c. Under PAKISTAN, by adding in alphabetical order entries for ''Chemtech International (Private) Limited,'' ''Engineering Materials and Equipment Co.,'' ''Inspectech,'' ''Value Additions (Pvt) Ltd.,'' and ''X-Cilent Engineering''; and

■ d. Under UNITED ARAB EMIRATES by adding in alphabetical order an entry for ''Odyssey General Trading FZC''.

The additions and revision read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
BRAZIL	Huawei Cloud Brazil, Sao Paulo, Brazil.	For all items subject to the EAR, see § 736.2(b)(3)(vi),[1] and 744.11 of the EAR, EXCEPT[2] for technology subject to the EAR that is designated as EAR99, or controlled on the Commerce Control List for anti-terrorism reasons only, when released to members of a ''standards organization'' (see § 772.1) for the purpose of contributing to the revision or development of a ''standard'' (see § 772.1).	Presumption of denial	85 FR 51603, 8/20/20; 87 FR [INSERT FR PAGE NUMBERNUMBER]; February 14, 2022.
*	*	*	*	*
*	*	*	*	*
CHINA, PEOPLE'S REPUBLIC OF.	*	*	*	*

Country	Entity	License requirement	License review policy	Federal Register citation
	Huawei Technologies Co., Ltd., a.k.a., the following two aliases: —Shenzhen Huawei Technologies; *and* —Huawei Technology, and to include the following addresses and the following 22 affiliated entities: Addresses for Huawei Technologies Co., Ltd.: Bantian Huawei Base, Longgang District, Shenzhen, 518129, China; *and* No. 1899 Xi Yuan Road, High-Tech West District, Chengdu, 611731; *and* C1, Wuhan Future City, No. 999 Gaoxin Ave., Wuhan, Hebei Province; *and* Banxuegang Industrial Park, Buji Longgang, Shenzhen, Guangdong, 518129, China; *and* R&D Center, No. 2222, Golden Bridge Road, Pu Dong District, Shanghai, China; *and* Zone G, Huawei Base, Bantian, Longgang District, Shenzhen, China; *and* Tsim Sha Tsui, Kowloon, Hong Kong. Affiliated entities: *Beijing Huawei Longshine Information Technology Co., Ltd.,* a.k.a., the following one alias: —Beijing Huawei Longshine, to include the following subordinate. Q80–3–25R, 3rd Floor, No. 3, Shangdi Information Road, Haidian District, Beijing, China. *Hangzhou New Longshine Information Technology Co., Ltd.,* Room 605, No. 21, Xinba, Xiachang District, Hangzhou, China. *Hangzhou Huawei Communication Technology Co., Ltd.,* Building 1, No. 410, Jianghong Road, Changhe Street, Binjiang District, Hangzhou, Zhejiang, China. *Hangzhou Huawei Enterprises,* No. 410 Jianghong Road, Building 1, Hangzhou, China. *Huawei Digital Technologies (Suzhou) Co., Ltd.,* No. 328 XINHU STREET, Building A3, Suzhou (Huawei R&D Center, Building A3, Creative Industrial Park, No. 328, Xinghu Street, Suzhou), Suzhou, Jiangsu, China. *Huawei Marine Networks Co., Ltd.,* a.k.a., the following four aliases: —Huawei Marine; —HMN Technologies; —Huahai Zhihui Technology Co., Ltd.,; *and* —HMN Tech. Building R4, No. 2 City Avenue, Songshan Lake Science & Tech Industry Park, Dongguan, 523808, *and* No. 62, Second Ave., 5/F–6/F, TEDA, MSD–B2 Area, Tianjin Economic and Technological Development Zone, Tianjin, 300457, China. *Huawei Mobile Technology Ltd.,* Huawei Base, Building 2, District B, Shenzhen, China. *Huawei Tech. Investment Co.,* U1 Building, No. 1899 Xiyuan Avenue, West Gaoxin District, Chengdu City, 611731, China.	For all items subject to the EAR, see §§ 736.2(b)(3)(vi),[1] and 744.11 of the EAR, except for technology subject to the EAR that is designated as EAR99, or controlled on the Commerce Control List for anti-terrorism reasons only, when released to members of a "standards organization" (see § 772.1) for the purpose of contributing to the revision or development of a "standard" (see § 772.1).	Presumption of denial	84 FR 22963, 5/21/19. 84 FR 43495, 8/21/19. 85 FR 29853, 5/19/20. 85 FR 36720, 6/18/20. 85 FR 51603, 8/20/20. 87 FR [INSERT FR PAGE NUMBER NUMBER]; February 14, 2022.

Country	Entity	License requirement	License review policy	Federal Register citation
	Huawei Technology Co., Ltd. Chengdu Research Institute, No. 1899, Xiyuan Ave., Hi-Tech Western District, Chengdu, Sichuan Province, 610041, China. *Huawei Technology Co., Ltd. Hangzhou Research Institute,* No. 410, Jianghong Rd., Building 4, Changhe St., Binjiang District, Hangzhou, Zhejiang Province, 310007, China. *Huawei Technologies Co., Ltd. Beijing Research Institute,* No. 3, Xinxi Rd., Huawei Building, ShangDi Information Industrial Base, Haidian District, Beijing, 100095, China; *and* No. 18, Muhe Rd., Building 1–4, Haidian District, Beijing, China. *Huawei Technologies Co., Ltd. Material Characterization Lab,* Huawei Base, Bantian, Shenzhen 518129, China. *Huawei Technologies Co., Ltd. Xi'an Research Institute,* National Development Bank Building (Zhicheng Building), No. 2, Gaoxin 1st Road, Xi'an High-tech Zone, Xi'an, China. *Huawei Terminal (Shenzhen) Co., Ltd.,* Huawei Base, B1, Shenzhen, China. *Nanchang Huawei Communication Technology,* No. 188 Huoju Street, F10–11, Nanchang, China. *Ningbo Huawei Computer & Net Co., Ltd.,* No. 48 Daliang Street, Ningbo, China. *Shanghai Huawei Technologies Co., Ltd.,* R&D center, No. 2222, Golden Bridge Road, Pu Dong District, Shanghai, 286305 Shanghai, China, China. *Shenzhen Huawei Anjiexin Electricity Co., Ltd.,* a.k.a., the following one alias: —Shenzhen Huawei Agisson Electric Co., Ltd. Building 2, Area B, Putian Huawei Base, Longgang District, Shenzhen, China; *and* Huawei Base, Building 2, District B, Shenzhen, China. *Shenzhen Huawei New Technology Co., Ltd.,* Huawei Production Center, Gangtou Village, Buji Town, Longgang District, Shenzhen, China. *Shenzhen Huawei Technology Service,* Huawei Base, Building 2, District B, Shenzhen, China. *Shenzhen Huawei Technologies Software,* Huawei Base, Building 2, District B, Shenzhen, China. *Zhejiang Huawei Communications Technology Co., Ltd.,* No. 360 Jiangshu Road, Building 5, Hangzhou, Zhejiang, China.			
*	*	*	*	*	*

Country	Entity	License requirement	License review policy	Federal Register citation
	Jiangsu Tianyuan Metal Powder Co. Ltd., No. 50, Jummin East Road, Yunhe, Lvcheng Town, Danyang City, Jiangsu Province, China 212352; *and* Canal military and civilians in Lucheng Town, Danyang City, Jiangsu Province 50 East Road, China, 212352; *and* No. 1, Airport East Road, Lucheng Town Danyang City, China; *and* Zhenjiang City, Jiangsu Zhenjiang, Danyang Lu Town Canal Army East, China.	All items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	87 FR [INSERT FR PAGE NUMBER DATE NUMBER]; February 14, 2022.
	* *	*	* *	*
	Wavelet Electronics, Room 605, 6/F, Corporation Park, No. 11 on Lai Street, Shatin, New Territories, Hong Kong; *and* Building A2–3, Haufeng Industrial Park, Shiyan, Baoan District, Shenzhen, China; *and* RM511 5/F, Corporation Park, 11 ON LAI Street, Siu Lek Yuen, Shatin, N.T. Hong Kong.	All items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	86 FR 71560, 12/17/21. 87 FR [INSERT FR PAGE NUMBER NUMBER]; February 14, 2022.
	* *	*	* *	*
*	* * *	*	* *	*
PAKISTAN	* *	*	* *	*
	Chemtech International (Private) Limited, B–35, Block-15, Gulsha-e-Iqbal, Karachi, Pakistan.	All items subject to the EAR. (See § 744.11 of the EAR)	See § 744.2(d) of the EAR	87 FR [INSERT FR PAGE NUMBERNUMBER]; February 14, 2022.
	* *	*	* *	*
	Engineering Materials and Equipment Co., a.k.a., the following one alias: —EMEC, Suite 7, Floor 6, Shaheen Complex, Egerton Road, Lahore 54010, Pakistan.	All items subject to the EAR. (See § 744.11 of the EAR)	See § 744.2(d) of the EAR..	87 FR [INSERT FR PAGE NUMBERNUMBER]; February 14, 2022.
	* *	*	* *	*
	Inspectech, Office Number 947, Block C, Faisal Town, Lahore, 54000, Pakistan.	All items subject to the EAR. (See § 744.11 of the EAR)	See § 744.2(d) of the EAR	87 FR [INSERT FR PAGE NUMBER NUMBER]; February 14, 2022.
	* *	*	* *	*
	Value Additions (Pvt) Ltd., 392–C, Qadeer Road, Rawalpindi, Pakistan.	All items subject to the EAR. (See § 744.11 of the EAR)	See § 744.2(d) of the EAR	87 FR [INSERT FR PAGE NUMBER NUMBER]; February 14, 2022.
	* *	*	* *	*
	X-Cilent Engineering, 642, Afshan Colony, Rawalpindi Cantt. 46,000, Pakistan.	All items subject to the EAR. (See § 744.11 of the EAR)	See § 744.2(d) of the EAR	87 FR [INSERT FR PAGE NUMBER NUMBER]; February 14, 2022.
	* *	*	* *	*
*	* * *	*	* *	*
UNITED ARAB EMIRATES.	* *	*	* *	*
	Odyssey General Trading FZC, Sharjah Airport International Free Zone (SAIF), Executive Building, Office No P8–07–04 Sharjah, U.A.E.; *and* PO Box No. 121214, Sharjah, U.A.E.	All items subject to the EAR. (See § 744.11 of the EAR)	See § 744.2(d) of the EAR	87 FR [INSERT FR PAGE NUMBER NUMBER]; February 14, 2022.
	* *	*	* *	*
*	* * *	*	* *	*

[1] For this entity, see § 734.9(e) of the EAR for foreign-produced items that are subject to the EAR and § 744.11 of the EAR for related license requirements, license review policy, and applicable license exceptions.

[2] *Cybersecurity research and vulnerability disclosure.* The following exports, reexports, and transfers (in-country) to Huawei Technologies Co., Ltd. (Huawei) and its non-U.S. affiliates on the Entity List for cybersecurity research and vulnerability disclosure subject to other provisions of the EAR are excluded from the Entity List license requirements: When the disclosure to Huawei and/or to its listed non-U.S. affiliates is limited to information regarding security vulnerabilities in items owned, possessed, or controlled by Huawei or any of its non-U.S. affiliates when related to the process of providing ongoing security research critical to maintaining the integrity and reliability of existing and currently 'fully operational network' and equipment. A 'fully operational network' refers to a 'third party' network providing services to the 'third party's' customers. The term 'third party' refers to a party that is not Huawei, one of its listed non-U.S. affiliates, or the exporter, reexporter, or transferor, but rather an organization such as a telecommunications service provider.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2022–03029 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 641

[Docket No. ETA–2022–0002]

RIN 1205–AC04

Senior Community Service Employment Program Conforming Changes to the Supporting Older Americans Act of 2020—Updated Guidance on Priority of Service, Durational Limits and State Plan Submissions

AGENCY: Employment and Training Administration, Labor.

ACTION: Direct final rule; technical amendments.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this direct final rule (DFR) amending the Senior Community Service Employment Program (SCSEP) regulations to conform with changes in the Supporting Older Americans Act of 2020 regarding individuals who have been incarcerated within the last 5 years. Consistent with the Act, the rule adds this category of individuals to the priority groups; adds this category of individuals to the list of categories grantees may choose from to make eligible for increased periods of participation; includes people in this category within the definition of the term ''individuals with barriers to employment''; and requires that grantees identify and report on the relative distribution of these individuals in the State Plan.

DATES: This DFR is effective April 15, 2022 without further action unless significant adverse comment is submitted by March 16, 2022. If the Department receives significant adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that this DFR will not take effect. Comments to this DFR must be submitted by March 16, 2022 All submissions must be made by the close of the comment period.

ADDRESSES: You may submit comments electronically identified by Regulatory Identification Number (RIN) 1205–AC04 by the following method:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions on the website for submitting comments.

Instructions: Include the agency's name and docket number ETA–2022–0002 in your comments. All comments received will become a matter of public record and will be posted without change to *https://www.regulations.gov.* Please do not include any personally identifiable or confidential business information that you do not want publicly disclosed.

FOR FURTHER INFORMATION CONTACT: Steven Rietzke, Chief, Division of National Programs, Tools and Technical Assistance, Office of Workforce Investment, at 202–693–3980. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Preamble Table of Contents

I. Background

The SCSEP, authorized by title V of the Older Americans Act of 1965 (OAA) and most recently reauthorized in 2020, is the only federally sponsored employment and training program targeted specifically to low-income, older individuals who want to enter or reenter the workforce. The program provides subsidized work experience training for low-income persons 55 years or older who are unemployed and have poor employment prospects. The dual goals of the program are to promote useful community service employment activities and to move SCSEP participants into unsubsidized employment so that they can achieve economic self-sufficiency.

In the Supporting Older Americans Act of 2020, Public Law 116–131 (the Act), Congress amended title V of the OAA to make certain changes to the SCSEP that would take effect 1 year from the March 25, 2020, enactment of the Act, *i.e.,* March 25, 2021. First, the Act makes an individual who ''has been incarcerated within the last 5 years or is under supervision following release from prison or jail within the last 5 years'' eligible for priority of service over those individuals who meet only the basic SCSEP eligibility criteria related to age, income, and employment. Public Law 116–131, sec. 401(a)(3)(B)(iii); 42 U.S.C. 3056p(b)(2)(H). Second, the Act adds individuals who ''have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years,'' to the list of categories for which the Department is required to authorize any SCSEP grantee to provide an increased period of participation if the relevant SCSEP grantee has made such a request. Public Law 116–131, sec. 401(a)(3)(A)(iii); 42 U.S.C. 3056p(a)(3)(B)(ii)(VI). Third, the Act revises the definition of ''individuals with barriers to employment'' to include ''eligible individuals who have been incarcerated or are under supervision following release from prison or jail.'' Public Law 116–131, sec. 401(a)(2); 42 U.S.C. 3056l(e)(1). Finally, the Act requires State Plans to identify and address the relative distribution of ''eligible individuals who have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.'' Public Law 116–131, sec. 401(a)(1)(C); 42 U.S.C. 3056a(a)(4)(C)(v).

In this DFR, the Department is incorporating the statutory changes described above into the SCSEP program regulations at 20 CFR part 641.

II. Consideration of Comments

The Department will consider comment on issues related to this action. If the Department receives no significant adverse comment, the Department will publish a **Federal Register** document confirming the effective date of the DFR and withdrawing the companion notice of proposed rulemaking (NPRM) published elsewhere in this issue of the **Federal Register**. Such confirmation may include minor stylistic or technical changes to the DFR. For the purpose of

judicial review, the Department views the date of confirmation of the effective date of the DFR as the date of promulgation.

III. Publication as a Direct Final Rule

In direct final rulemaking such as this, the Department is publishing a DFR which will go into effect unless the Department receives significant adverse comment within the comment period. The Department is also concurrently publishing a virtually identical NPRM. The Department plans to confirm the date that this DFR goes into effect through a separate **Federal Register** document. If the Department receives a significant adverse comment, it will withdraw this DFR and treat such comment as a response to the NPRM.

For purposes of this DFR, a significant adverse comment is one that explains: (1) Why the DFR is inappropriate, including challenges to its underlying premise or approach; or (2) why the DFR will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this DFR, the Department will consider whether the comment raises an issue serious enough to warrant a substantive response. The Department will not consider a comment recommending an additional amendment to this regulation to be a significant adverse comment unless the comment states why the DFR would be ineffective without the addition.

In addition to publishing this DFR, the Department is publishing an NPRM in the **Federal Register**. The comment period for the NPRM runs concurrently with that of the DFR. The Department will treat comments received on the companion NPRM as comments on the DFR. Similarly, the Department will consider comments submitted to the DFR as comments to the companion NPRM. Therefore, if the Department receives a significant adverse comment on either this DFR or the NPRM, it will withdraw this DFR and proceed with the companion NPRM. In the event the Department withdraws the DFR because of significant adverse comment, the Department will consider all timely comments received in response to the DFR when it continues with the NPRM. After considering all comments to the DFR and the NPRM, the Department will decide whether to publish a new final rule or confirm the date that this DFR goes into effect through a separate **Federal Register** document.

The Department has determined that the subject of this rule is suitable for DFR because the Administrative Procedure Act authorizes an agency to issue a rule without notice and comment when, as here, ''the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The Department for good cause finds that notice and comment rulemaking would be unnecessary because this DFR almost entirely makes conforming amendments to the SCSEP program regulations to align with changes required by the Act, which have already become effective. Accordingly, no significant adverse comments are anticipated.

IV. Section-by-Section Discussion of Changes

The Department is making the following changes to implement the provisions of the Act. First, the Department is revising § 641.140 to define formerly incarcerated individuals as individuals who ''were incarcerated at any point within the last 5 years,'' or ''were under supervision at any point within the last 5 years, following release from prison or jail.'' The definition also specifies that the referenced 5-year period means the 5 years preceding the date of first determination of program eligibility, as described in § 641.505, for initial enrollment into the program. The current regulation does not include a definition of formerly incarcerated individuals, but the Department is defining the term in this DFR based upon language provided in the Act, which makes an individual who ''has been incarcerated within the last 5 years or is under supervision following release from prison or jail within the last 5 years'' eligible for priority enrollment. Public Law 116–131, sec. 401(a)(3)(B)(iii); 42 U.S.C. 3056p(b)(2)(H). The definition included in this DFR also contains an explanation of the meaning of the 5-year period specified in the Act in order to clarify the meaning of the phrase ''within the last 5 years.'' The Act is silent about how to calculate the 5-year period. The Department has determined that connecting this date to the individual's possible participation in the SCSEP program aligns with the intent of the amendments and that using the ''date of first determination of program eligibility'' as described in § 641.505 provides a readily available date for grantees to reference when determining individuals' eligibility for the program.

The Department is also revising § 641.140 to include ''formerly incarcerated individuals'' in the definition of ''most-in-need.'' The existing definition of most-in-need is made up of all the categories of individuals for whom the grantees may request be made eligible for increased periods of participation (the list is at 42 U.S.C. 3056p(a)(3)(B)(ii)) and the categories of individuals who receive priority enrollment (the list in 42 U.S.C. 3056p(b)(2)). Under sec. 401(a)(3) of the Act, individuals eligible for increased periods of participation now include individuals who ''have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years,'' and the priority of service list now includes individuals who ''ha[ve] been incarcerated within the last 5 years or [are] under supervision following release from prison or jail within the last 5 years.'' Consistent with the Act's addition of ''formerly incarcerated individuals'' to these two lists, the Department is adding ''are formerly incarcerated as defined in this section'' to the § 641.140 definition of ''most-in-need.'' For purposes of clarity, the Department also has restructured the definition of ''most-in-need'' to present the list of most-in-need individuals as a numbered list.

Similarly, based on amendments made in the Act, the Department is revising § 641.325(b) to comply with the Act's requirement that the State Plan identify and address the relative distribution of ''eligible individuals who have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.'' Public Law 116–131, sec. 401(a)(1)(C); 42 U.S.C. 3056a(a)(4)(C)(v). Currently, § 641.325(b) lists information that must be included in the State Plan, including the relative distribution of certain individuals eligible for the program. Pursuant to the Act's requirement, see 42 U.S.C. 3056a(a)(4)(C)(v), the Department is revising § 641.325(b) to add ''[e]ligible individuals who are formerly incarcerated individuals as defined in § 641.140'' to the list of eligible individuals on whom the State Plan must provide information regarding relative distribution.

Additionally, the Department is revising §§ 641.420 and 641.520 to incorporate the Act's requirement that eligible individuals who ''[have] been incarcerated within the last 5 years or [are] under supervision following release from prison or jail within the last 5 years'' receive priority enrollment. Public Law 116–131, sec. 401(a)(3)(B)(iii); 42 U.S.C. 3056p(b)(2)(H). Paragraphs (a)(1) through (8) of § 641.520 list the characteristics that grantees and sub-recipients must consider when

determining whether to provide eligible individuals with priority. Pursuant to the Act, see 42 U.S.C. 3056p(b)(2)(H), the Department is revising this list to include new paragraph (a)(9), which provides priority to individuals who are formerly incarcerated individuals, as defined in § 641.140. Accordingly, the Department is also making a minor technical change to § 641.420(e) to update the reference to § 641.520(a) to account for the addition of paragraph (a)(9) in § 641.520.

The Department is also revising §§ 641.570 and 641.710 to integrate the Act's requirement that the Secretary authorize a grantee to increase the period of participation for individuals who ''have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.'' Public Law 116–131, sec. 401(a)(3)(A)(iii); 42 U.S.C. 3056p(a)(3)(B)(ii)(VI). Existing SCSEP regulations at § 641.570(b) list the categories of individuals for whom the Department will provide increased periods of participation if requested by the grantee. Pursuant to the Act, the Department has added new paragraph (b)(6), which states that individuals who are formerly incarcerated individuals, as defined in § 641.140 are, upon a grantee's request, eligible for an extended period of individual participation. Additionally, existing SCSEP regulations at § 641.710 define core performance measures, including ''service to the [m]ost-in-need'' (§ 641.710(g)). Consistent with the change to the most-in-need definition at § 641.140, discussed above, the Department has added new paragraph at § 641.710(g)(14) to include individuals who ''[a]re formerly incarcerated individuals as defined in § 641.140'' to the list of individuals characterized as most-in-need. See Public Law 116–131, sec. 401(a)(3); 42 U.S.C. 3056p(a)(3)(B)(ii)(IV), (b)(2)(H).

Finally, sec. 401(a)(2) of the Act revises the definition of ''individuals with barriers to employment'' in the OAA to include ''eligible individuals who have been incarcerated or are under supervision following release from prison or jail.'' Public Law 116–131, sec. 401(a)(2); 42 U.S.C. 3056l(e)(1). This section of the OAA requires certain national SCSEP grantees to give special consideration to selecting subgrantee organizations with demonstrated expertise in serving individuals with barriers to employment. Paragraph (d) of § 641.881(d) is the corresponding regulatory provision to implement this section of the OAA, stating that for purposes of this section, the term ''individuals with barriers to employment'' includes ''minority individuals, Indian individuals, individuals with greatest economic need, and most-in-need individuals.'' The Department notes that because the existing regulatory text in § 641.881(d) references ''most-in-need individuals,'' the regulatory text does not require change to align with the Act. The changes explained above that add formerly incarcerated individuals to the most-in-need definition at § 641.140 and to the list of most-in-need individuals at § 641.710(g) have the effect of including formerly incarcerated individuals in the reference to most-in-need individuals in the existing definition of barriers to employment at § 641.881(d)(2).

V. Rulemaking Analyses and Notices

Regulatory Flexibility Analysis, Executive Order 13272, Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires the Department to evaluate the economic impact of this rule with regard to small entities. The RFA defines small entities to include small businesses, small organizations including not-for-profit organizations, and small governmental jurisdictions. The Department must determine whether the rule imposes a significant economic impact on a substantial number of such small entities.

There are 77 SCSEP grantees; 50 of these are States and are not small entities as defined by the RFA. Six grantees are governmental jurisdictions other than States (four grantees are territories, such as Guam; one grantee is Washington, DC; and another grantee is Puerto Rico). Governmental jurisdictions must have a population of less than 50,000 to qualify as a small entity for RFA purposes and the population of these 6 SCSEP grantees each exceeds 50,000. The remaining 21 grantees are non-profit organizations, which includes some large, national non-profit organizations.

The Department has determined that this DFR will impose a negligible additional burden on small entities. SCSEP grantees already review their policies on a regular basis to align with guidance and the activities related to this DFR will only add one more item to consider during these activities. SCSEP grantees also already determine eligibility on a regular basis and the additional population category is only an additional factor to consider. Whatever negligible costs that the new regulation requires of SCSEP grantees is covered by SCSEP administrative costs and programmatic activity costs funding.

The Department certifies that this DFR does not impose a significant economic impact on a substantial number of small entities.

Executive Orders 12866 and 13563

Under Executive Order (E.O.) 12866, Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive order and review by OMB. 58 FR 51735 (Oct. 4, 1993).

Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* OMB has determined that this DFR is not a ''significant regulatory action'' under sec. 3(f) of E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

OMB waived review of this rulemaking because it is not a significant regulatory action.

Paperwork Reduction Act

This DFR is not subject to the requirements of the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3501 *et seq.*) because it does not contain a collection of information as defined in 44 U.S.C. 3502(3). The

Department previously submitted to OMB revision requests to the three information collections affected by the statute in this DFR, which were subsequently approved by OMB. See Information Collection Request (ICR) Reference Numbers 202112–1205–003 (OMB Control Number 1205–0521), 202108–1205–007 (OMB Control Number 1205–0040), and 202103–1205–001 (OMB Control Number 1205–0448).

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million.

Executive Order 13132

The Department has reviewed this rule in accordance with E.O. 13132 regarding federalism and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the [N]ational [G]overnment and the States, or on the distribution of power and responsibilities among the various levels of government.'' This DFR updates, defines, and implements eligibility requirements, waiver factors, and performance measures for the SCSEP. While States are SCSEP grantees, this rule merely makes minor changes to currently ongoing data collection processes. Requiring State grantees to implement these changes does not constitute a ''substantial direct effect'' on the States, nor will it alter the relationship or responsibilities between the Federal and State governments.

Privacy Act

The Privacy Act of 1974, 5 U.S.C. 552a, provides safeguards to individuals concerning their personal information that the Government collects. The Privacy Act requires certain actions by an agency that collects information on individuals when that information contains personally identifiable information, such as Social Security numbers (SSNs) or names. Because SCSEP participant records are maintained by SSN, the Privacy Act applies here.

A key concern is for the protection of participant SSNs. Grantees must collect the SSN in order to pay participants properly for their community service work in host agencies. When grantees send participant files to the Department for aggregation, the transmittal is protected by secure encryption. When participant files are retrieved within the internet-based SCSEP data management system, only the last four digits of the SSN are displayed. Any information that is shared or made public is aggregated by grantee and does not reveal personal information on specific individuals.

The Department works diligently to ensure the highest level of security whenever personally identifiable information is stored or transmitted. All contractors that have access to individually identifying information are required to provide assurances that they will respect and protect the confidentiality of the data. The Department's Office the Chief Information Officer has been an active participant in the development and approval of data security measures.

In addition to the above, the Department provides a Privacy Act Statement to grantees for distribution to all participants. The Department advised grantees of the requirement in Training and Employment Guidance Letter No. 39–11 (June 28, 2012). Participants receive this information when they meet with a caseworker or intake counselor. When the Department monitors the programs, implementation of this term is included in the reviews.

Amended Regulatory Text

List of Subjects in 20 CFR Part 641

Administrative practice and procedure, Aged, Employment, Equal employment opportunity, Government contracts, Grant programs—labor, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Department amends 20 CFR part 641 as follows:

PART 641—PROVISIONS GOVERNING THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

■ 1. The authority citation for part 641 is revised to read as follows:

Authority: 42 U.S.C. 3056–3056p.

Subpart A—Purpose and Definitions

■ 2. Amend § 641.140 by adding the definition of *Formerly incarcerated individuals* in alphabetical order and revising the definition of *Most-in-need* to read as follows:

§ 641.140 What definitions apply to this part?

* * * * *

Formerly incarcerated individuals mean:

(1) Individuals who were incarcerated at any point within the last 5 years; or

(2) Individuals who were under supervision at any point within the last 5 years, following release from prison or jail.

(3) The 5-year period specified in this definition refers to the 5 years preceding the date of first determination of program eligibility, as described in § 641.505, for initial enrollment into the program.

* * * * *

Most-in-need means participants with one or more of the following characteristics (OAA sec. 513(b)(1)(F)):

(1) Have a severe disability;

(2) Are frail;

(3) Are age 75 or older;

(4) Are age-eligible but not receiving benefits under title II of the Social Security Act;

(5) Reside in an area with persistent unemployment and have severely limited employment prospects;

(6) Have limited English proficiency;

(7) Have low literacy skills;

(8) Have a disability;

(9) Reside in a rural area;

(10) Are veterans;

(11) Have low employment prospects;

(12) Have failed to find employment after using services provided under title I of the Workforce Innovation and Opportunity Act;

(13) Are homeless or at risk for homelessness; or

(14) Are ''formerly incarcerated'' as defined in this section.

* * * * *

Subpart C—The State Plan

■ 3. Amend § 641.325 by revising paragraphs (b)(4) and (5) and adding paragraph (b)(6) to read as follows:

§ 641.325 What information must be provided in the State Plan?

* * * * *

(b) * * *

(4) Eligible individuals who are limited English proficient;

(5) Eligible individuals who have the greatest social need; and

(6) Eligible individuals who are formerly incarcerated individuals as defined in § 641.140;

* * * * *

Subpart D—Grant Application and Responsibility Review Requirements for State and National SCSEP Grants

■ 4. Amend § 641.420 by revising paragraph (e) to read as follows:

§ 641.420 What are the eligibility criteria that each applicant must meet?

* * * * *

(e) An ability to move participants with multiple barriers to employment, including individuals described in § 641.570(b) or § 641.520(a)(2) through (9), into unsubsidized employment;
* * * * *

Subpart E—Services to Participants

■ 5. Amend § 641.520 by revising the section heading and paragraphs (a)(7) and (8) and adding paragraph (a)(9) to read as follows:

§ 641.520 Are there any priorities that grantees and sub-recipients must use in selecting eligible individuals for participation in the Senior Community Service Employment Program?

(a) * * *

(7) Have failed to find employment after using services provided through the one-stop delivery system;

(8) Are homeless or are at risk for homelessness; or

(9) Are formerly incarcerated individuals as defined in § 641.140. (OAA sec. 518(b).)

* * * * *

■ 6. Amend § 641.570 by revising paragraphs (b)(4) and (5) and adding paragraph (b)(6) to read as follows:

§ 641.570 Is there a time limit for participation in the program?

* * * * *

(b) * * *

(4) Live in an area with persistent unemployment and are individuals with severely limited employment prospects;

(5) Have limited English proficiency or low literacy skills; or

(6) Are formerly incarcerated individuals as defined in § 641.140.

* * * * *

Subpart G—Performance Accountability

■ 7. Amend § 641.710 by revising paragraphs (g)(12) and (13) and adding paragraph (g)(14) to read as follows:

§ 641.710 How are the performance measures defined?

* * * * *

(g) * * *

(12) Have failed to find employment after utilizing services provided under title I of the Workforce Innovation and Opportunity Act;

(13) Are homeless or at risk for homelessness; or

(14) Are formerly incarcerated individuals as defined in § 641.140.

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–02680 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. FDA–2021–N–0999]

Medical Devices; Cardiovascular Devices; Classification of the Adjunctive Predictive Cardiovascular Indicator

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 we) is classifying the adjunctive predictive cardiovascular indicator into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the adjunctive predictive cardiovascular indicator's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective February 14, 2022. The classification was applicable on March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Aneesh Deoras, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2564, Silver Spring, MD 20993–0002, 240–402–4363, *Aneesh.Deoras@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the adjunctive predictive cardiovascular indicator as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation. When FDA classifies a device into class I or II via the De Novo process, the device can

serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On September 26, 2016, FDA received Edwards Lifesciences, LLC's request for De Novo classification of the Acumen Hypotension Prediction Index (HPI) Feature Software. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on March 16, 2018, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 870.2210.[1] We have named the generic type of device adjunctive predictive cardiovascular indicator, and it is identified as a prescription device that uses software algorithms to analyze cardiovascular vital signs and predict future cardiovascular status or events. This device is intended for adjunctive use with other physical vital sign parameters and patient information and is not intended to independently direct therapy.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—ADJUNCTIVE PREDICTIVE CARDIOVASCULAR INDICATOR RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Delayed or incorrect treatment due to erroneous device output resulting from software malfunction or algorithm error.	Software verification, validation, and hazard analysis; Non-clinical performance testing; Clinical performance testing; and Labeling.
Delayed or incorrect treatment due to user misinterpretation or overreliance on indicator	Usability assessment, and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, 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. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

At the time of classification, adjunctive predictive cardiovascular indicators are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. 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.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. 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 the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 870

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 870 is amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for part 870 continues to read as follows:

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

■ 2. Add § 870.2210 to subpart C to read as follows:

§ 870.2210 Adjunctive predictive cardiovascular indicator.

(a) *Identification.* The adjunctive predictive cardiovascular indicator is a prescription device that uses software algorithms to analyze cardiovascular

[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) 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.

vital signs and predict future cardiovascular status or events. This device is intended for adjunctive use with other physical vital sign parameters and patient information and is not intended to independently direct therapy.

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

(1) A software description and the results of verification and validation testing based on a comprehensive hazard analysis and risk assessment must be provided, including:

(i) A full characterization of the software technical parameters, including algorithms;

(ii) A description of the expected impact of all applicable sensor acquisition hardware characteristics and associated hardware specifications;

(iii) A description of sensor data quality control measures;

(iv) A description of all mitigations for user error or failure of any subsystem components (including signal detection, signal analysis, data display, and storage) on output accuracy;

(v) A description of the expected time to patient status or clinical event for all expected outputs, accounting for differences in patient condition and environment; and

(vi) The sensitivity, specificity, positive predictive value, and negative predictive value in both percentage and number form.

(2) A scientific justification for the validity of the predictive cardiovascular indicator algorithm(s) must be provided. This justification must include verification of the algorithm calculations and validation using an independent data set.

(3) A human factors and usability engineering assessment must be provided that evaluates the risk of misinterpretation of device output.

(4) A clinical data assessment must be provided. This assessment must fulfill the following:

(i) The assessment must include a summary of the clinical data used, including source, patient demographics, and any techniques used for annotating and separating the data.

(ii) The clinical data must be representative of the intended use population for the device. Any selection criteria or sample limitations must be fully described and justified.

(iii) The assessment must demonstrate output consistency using the expected range of data sources and data quality encountered in the intended use population and environment.

(iv) The assessment must evaluate how the device output correlates with the predicted event or status.

(5) Labeling must include:

(i) A description of what the device measures and outputs to the user;

(ii) Warnings identifying sensor acquisition factors that may impact measurement results;

(iii) Guidance for interpretation of the measurements, including a statement that the output is adjunctive to other physical vital sign parameters and patient information;

(iv) A specific time or a range of times before the predicted patient status or clinical event occurs, accounting for differences in patient condition and environment;

(v) Key assumptions made during calculation of the output;

(vi) The type(s) of sensor data used, including specification of compatible sensors for data acquisition;

(vii) The expected performance of the device for all intended use populations and environments; and

(viii) Relevant characteristics of the patients studied in the clinical validation (including age, gender, race or ethnicity, and patient condition) and a summary of validation results.

Dated: February 7, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–03096 Filed 2–11–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. FDA–2021–N–0994]

Medical Devices; General Hospital and Personal Use Devices; Classification of the Spore Test Strip

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is classifying the spore test strip into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the spore test strip's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective February 14, 2022. The classification was applicable on March 30, 2012.

FOR FURTHER INFORMATION CONTACT: Clarence Murray III, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4506, Silver Spring, MD 20993–0002, 301–796–0270, *Clarence.Murray@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the spore test strip as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as postamendments devices because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through De Novo classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation

Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application (PMA) to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

For this device, FDA issued an order on July 1, 2011, finding the VERIFY S40 Biological Indicator Kit not substantially equivalent to a predicate not subject to PMA. Thus, the device remained in class III in accordance with section 513(f)(1) of the FD&C Act when we issued the order.

On August 1, 2011, FDA received STERIS Corporation's request for De Novo classification of the VERIFY Spore Test Strip for S40. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on March 30, 2012, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 880.6887.[1] We have named the generic type of device spore test strip, and it consists of a carrier or strip with a known number of spores, at least 5 $\log_{10}$ per strip, of known resistance to a particular liquid chemical sterilant in a liquid chemical sterilant processing system. A ''no growth'' result from the spore test strip after the specified predetermined incubation period indicates that the liquid chemical sterilization process achieved the conditions necessary to kill the specified minimum number of viable spores on the test strip, which is 5 $\log_{10}$ spores/strip. It does not confirm the expected full performance of the liquid chemical sterilant processing cycle because full performance is a 6 $\log_{10}$ spore kill in a full liquid chemical sterilization cycle.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—SPORE TEST STRIP RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
User handling error due to false fail spore test strip device result due to technical malfunction.	Spore strip characterization, Simulated use testing, Shelf life, and Labeling.
User handling error due to false pass spore test strip device result due to technical malfunction.	Spore strip characterization, Simulated use testing, Shelf life, and Labeling.
User handling error due to misunderstanding spore test strip device use instructions.	Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, 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. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. 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.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. 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 the guidance document ''De Novo Classification Process (Evaluation of

[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) 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.

Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 880

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 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

■ 1. The authority citation for part 880 continues to read as follows:

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

■ 2. Add § 880.6887 to subpart G to read as follows:

§ 880.6887 Spore test strip.

(a) *Identification.* The spore test strip consists of a carrier or strip with a known number of spores, at least 5 $\log_{10}$ per strip, of known resistance to a particular liquid chemical sterilant in a liquid chemical sterilant processing system. A ''no growth'' result from the spore test strip after the specified predetermined incubation period indicates that the liquid chemical sterilization process achieved the conditions necessary to kill the specified minimum number of viable spores on the test strip which is 5 $\log_{10}$ spores/strip; it does not confirm the expected full performance of the liquid chemical sterilant processing cycle because full performance is a 6 $\log_{10}$ spore kill in a full liquid chemical sterilization cycle.

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

(1) *Spore strip characterization.* (i) Population of viable spores on strip shall be a minimum of 5 $\log_{10}$ after physical wash off of spores from the strip by exposure to liquid chemical sterilant in the liquid chemical sterilant processing system, which should be validated over the claimed shelf life.

(ii) The resistance characteristics of the viable spores on the strip should be defined and be validated over the claimed shelf life.

(iii) The spore strip description should address the carrier material, how the spores are placed on the carrier, and whether there is any feature that minimizes spore wash off. Bacteriostasis of the spore strip materials should be evaluated.

(iv) Incubation time for viable spores on the strip should be validated under the specified incubation conditions over the claimed shelf life.

(2) *Simulated Use Testing.* Simulated use testing should demonstrate performance of spore test strip in liquid chemical sterilant/high level disinfectant under worst case in use conditions over the claimed shelf life.

(3) *Labeling.* Labeling should specify appropriate instructions, warnings, cautions, limitations, and information relating to viable spore population, resistance characteristics, and interpretation of a ''no growth'' result.

Dated: February 7, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–03104 Filed 2–11–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 14, 17, 20, 26, 28, 30, 81, 103, 180, and 570

[Docket No. FR–6285–F–01]

HUD Office of Hearings and Appeals

AGENCY: Office of Hearings and Appeals, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations regarding HUD's Office of Hearings and Appeals (OHA). This rule makes conforming changes to HUD regulations to reflect the office's proper title, to remove references to the terminated HUD Board of Contract Appeals, and to add a reference to recent Supreme Court precedent regarding the proper appointment procedure for administrative law judges and administrative judges.

DATES: *Effective* March 16, 2022.

FOR FURTHER INFORMATION CONTACT: J. Jeremiah Mahoney, Chief Administrative Law Judge, Office of Hearings and Appeals, Department of Housing and Urban Development, 451 7th Street SW, Room B–133, Washington, DC 20410, 202–254–0000 (not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The HUD Office of Hearings and Appeals (OHA) is an independent judicial office within HUD's Office of the Secretary. The OHA is headed by the Chief Administrative Law Judge, who supervises the judges and the professional and administrative support staffs.

Each Administrative Judge and each Administrative Law Judge is appointed by the HUD Secretary as an Officer of the United States. The Judges also may be appointed through contracts with other U.S. Department heads and Federal Agency heads to conduct hearings and issue decisions on matters before their respective agencies.

The OHA Judges function as independent and impartial triers of fact responsible for presiding over adversarial hearings, and adjudicating appeals, based upon alleged violations of Federal statutes or their implementing regulations.

Hearing procedures are established by agency regulations and are guided by the rules applicable to trials in a U.S. district court. In each case, the judge makes an impartial decision based upon the law, and the facts established by the evidence.

II. This Final Rule

This final rule updates HUD's regulations in 24 CFR parts 14, 17, 20, 26, 28, 30, 81, 103, 180, and 570, to reflect that the office's title is ''Office of Hearings and Appeals,'' as changed by the HUD Secretary. These HUD regulations contain outdated references to the ''Office of Administrative Law Judges,'' ''Office of Appeals,'' and ''Board of Contract Appeals.'' This final rule updates HUD regulations throughout Title 24 to reflect these changes. While this final rule updates those sections of Title 24 that use outdated language that also implicate the hearing procedures at 24 CFR part 180, there are other sections of Title 24 that rely on the hearing procedures at 24 CFR part 180, which do not require the conforming amendments made by this final rule, including 24 CFR parts 1, 3, 6, 8, and 146. These sections of Title 24 implement federal civil rights statutes, which continue to rely on 24 CFR part 180 for administrative enforcement procedures.

OHA was formed at the end of 2007 after the HUD Board of Contract Appeals, along with other agencies' boards of contract appeals, was consolidated into the Civilian Board of Contract Appeals. The Civilian Board of Contract Appeals is an independent tribunal housed within the U.S. General Services Administration, pursuant to section 847 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163, approved January 6, 2006). OHA was established to merge the non-procurement contract dispute functions previously performed by the HUD Board of Contract Appeals with the HUD Office of Administrative Law Judges. OHA remained as an independent office within the Office of the Secretary. This final rule will not change any existing OHA functions, but will avoid internal or external confusion as to its name, composition, location, and contact information. This final rule also removes an obsolete reference to a ''hearing examiner'' in 24 CFR 14.50, because this is a former title for Administrative Law Judges that is no longer used in the Federal Government.

This final rule also adds language to HUD's regulations in 24 CFR 20.1 to explain that Administrative Law Judges are appointed by the HUD Secretary as Officers of the United States, pursuant to the Appointments Clause of the United States Constitution. The HUD Administrative Law Judges have also been appointed by other U.S. Department heads and Federal Agency heads to conduct hearings and issue decisions on matters before their respective agencies. The requirement of U.S. Department and Federal Agency heads to appoint Administrative Law Judges was recently recognized by the Supreme Court in *Lucia* v. *SEC,* 585 U.S. ____ (2018). HUD is adding this language to its regulations in response to this.

Finally, this final rule clarifies the required qualifications for both Administrative Judges and Administrative Law Judges at 24 CFR 20.3(d) in accordance with the Office of Personnel Management's requirements and regulations at 5 CFR part 930. All of HUD's Administrative Judges and Administrative Law Judges are currently actively licensed attorneys at law.

III. Justification for Final Rulemaking

Generally, HUD publishes a rule for public comment before publishing a rule for effect, in accordance with HUD's regulations on rulemaking at 24 CFR part 10. However, § 10.1 allows for omission of notice and public comment in cases of statements of policy, interpretive rules, rules governing HUD's organization or internal practices, if the Department determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. In this case, HUD has determined that prior public comment is unnecessary because this rule is exclusively concerned with fixing outdated references concerning OHA. Specifically, the regulatory amendments made by the final rule are technical and non-substantive in nature, since they are limited to updating the terminology used in HUD's regulations governing administrative hearings and appeals and adding language in accordance with Supreme Court precedent.

IV. Findings and Certifications

Executive Orders 12866 and 13563, Regulatory Planning and Review

Under Executive Order 12866 (Regulatory Planning and Review) (58 FR 51735), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order.

Executive Order 13563 (Improving Regulations and Regulatory Review) (76 FR 3821) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. As discussed above in this preamble, this final rule updates outdated terminology and its changes are technical and non-substantive in nature. HUD determined that this rule was not significant under Executive Order 12866 and Executive Order 13563.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') (64 FR 43255) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern, or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) [1] requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.[2] However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking. As discussed above, HUD has determined, for good cause, that prior notice and public comment is not required on this rule and, therefore, the UMRA does not apply to this final rule.

[1] 2 U.S.C. 1532.

[2] 2 U.S.C. 1535.

List of Subjects

24 CFR Part 14

Claims, Equal access to justice, Lawyers, Reporting and recordkeeping requirements.

24 CFR Part 17

Administrative practice and procedure, Claims, Government employees, Income taxes, Wages.

24 CFR Part 20

Administrative practice and procedure, Government contracts, Organization and functions (Government agencies).

24 CFR Part 26

Administrative practice and procedure.

24 CFR Part 28

Administrative practice and procedure, Claims, Fraud, Penalties.

24 CFR Part 30

Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Mortgage insurance, Penalties.

24 CFR Part 81

Accounting, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

24 CFR Part 103

Administrative practice and procedure, Aged, Fair housing, Individuals with disabilities, Intergovernmental relations, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 180

Administrative practice and procedure, Aged, Civil rights, Fair housing, Individuals with disabilities, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Student aid, Virgin Islands.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 14, 17, 20, 26, 28, 30, 81, 103, 180, and 570 to read as follows:

PART 14—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN ADMINISTRATIVE PROCEEDINGS

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

Authority: 5 U.S.C. 504(c)(1); 42 U.S.C. 3535(d).

■ 2. In § 14.50, revise the definition of ''Adjudicative officer'' to read as follows:

§ 14.50 Definitions.

* * * * *

Adjudicative officer. The Administrative Law Judge, Administrative Judge of the HUD Office of Hearings and Appeals, or other officer designated by the Secretary, who presided at the adversary adjudication.

* * * * *

PART 17—ADMINISTRATIVE CLAIMS

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

Authority: 28 U.S.C. 2672; 31 U.S.C. 3711, 3716–18, 3721, and 5 U.S.C. 5514; 42 U.S.C. 3535(d).

PART 17—[Amended]

■ 4. In part 17:

■ a. Remove ''Office of Appeals'' and add in its place ''Office of Hearings and Appeals'' wherever it appears; and

■ b. Remove ''OA'' and add in its place ''OHA'' wherever it appears.

■ 5. In § 17.63, remove the definition of ''Office of Appeals or OA'' and add a definition for ''Office of Hearings and Appeals'' in alphabetical order.

The addition reads as follows:

§ 17.63 Definitions.

* * * * *

Office of Hearings and Appeals or *OHA* means the HUD Office of Hearings and Appeals.

* * * * *

PART 20—OFFICE OF HEARINGS AND APPEALS

■ 6. The authority citation for part 20 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

■ 7. Revise § 20.1 to read as follows:

§ 20.1 Establishment of the Office of Hearings and Appeals.

There is established in the Office of the Secretary the Office of Hearings and Appeals. The Administrative Law Judges and the Administrative Judges within the Office of Hearings and Appeals are appointed by the Secretary of the Department pursuant to the Appointments Clause of the United States Constitution.

■ 8. In § 20.3, revise paragraphs (c) and (d) to read as follows:

§ 20.3 Location, organization, and officer qualifications.

* * * * *

(c) *Organization.* The Office of Hearings and Appeals is supervised by the Chief Administrative Law Judge and a Deputy Chief Administrative Law Judge.

(d) *Officer qualifications.* (1) The Administrative Judges of the Office of Hearings and Appeals shall be attorneys at law actively licensed by any state, commonwealth, territory, or the District of Columbia.

(2) The Administrative Law Judges of the Office of Hearings and Appeals shall be qualified in accordance with the Office of Personnel Management regulations at 5 CFR part 930.

■ 9. In § 20.5, revise the section heading and in the first sentence remove ''Office of Appeals'' and add in its place ''Office of Hearings and Appeals''.

The revision reads as follows:

§ 20.5 Jurisdiction of Office of Hearings and Appeals.

* * * * *

PART 26—HEARING PROCEDURES

■ 10. The authority citation for part 26 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

§ 26.2 [Amended]

■ 11. In § 26.2, in paragraph (a), remove the words ''Office of Appeals''.

§ 26.9 [Amended]

■ 12. In § 26.9, in paragraph (a)(1), remove ''Office of Appeals'' and add in its place ''Office of Hearings and Appeals''.

§ 26.29 [Amended]

■ 13. In § 26.29, in the definition of ''Docket Clerk'', remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals''.

PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

■ 14. The authority citation for part 28 continues to read as follows:

Authority: 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812; 42 U.S.C. 3535(d).

§ 28.25 [Amended]

■ 15. In § 28.25, in paragraph (a), remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals''.

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

■ 16. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 1 note and 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

■ 17. In part 30, remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 81—THE SECRETARY OF HUD'S REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FANNIE MAE) AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION (FREDDIE MAC)

■ 18. The authority citation for part 81 continues to read as follows:

Authority: 12 U.S.C. 1451 *et seq.,* 1716–1723h, and 4501–4641; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 3601–3619.

■ 19. In part 81, remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 103—FAIR HOUSING—COMPLAINT PROCESSING

■ 20. The authority citation for part 103 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3600–3619.

PART 103—[Amended]

■ 21. In part 103, remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 180—CONSOLIDATED HUD HEARING PROCEDURES FOR CIVIL RIGHTS MATTERS

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

Authority: 28 U.S.C. 1 note; 29 U.S.C. 794; 42 U.S.C. 2000d–1, 3535(d), 3601–3619, 5301–5320, and 6103.

■ 23. In part 180:
■ a. Remove ''Director of the Office of Hearings and Appeals'' and add in its place ''Chief Administrative Law Judge'' wherever it appears; and
■ b. Remove ''Office of ALJs'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

■ 24. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x–1; 42 U.S.C. 3535(d) and 5301–5320.

§ 570.496 [Amended]

■ 25. In § 570.496, in paragraph (d)(1)(iii), remove ''Office of Administrative Law Judges'' and add in its place ''Office of Hearings and Appeals'' wherever it appears.

Dated: February 8th, 2022.

Marcia L. Fudge,

Secretary.

[FR Doc. 2022–03007 Filed 2–11–22; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 62, and 63

[EPA–HQ–OAR–2002–0047; FRL–6838.1–03–OAR]

RIN 2060–AV01

National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: In this action, the U.S. Environmental Protection Agency (EPA) is finalizing technical revisions and clarifications for the national emission standards for hazardous air pollutants (NESHAP) for MSW Landfills established in the March 26, 2020, final rule. This final rule also amends the MSW Landfills NSPS at 40 CFR part 60, subpart XXX, to clarify and align the timing of compliance for certain requirements involving installation of a gas collection and control system (GCCS) under related MSW landfill rules. Additionally, the EPA is revising the definition of Administrator in the MSW Landfills Federal Plan that was promulgated on May 21, 2021 to clarify who has the authority to implement and enforce the applicable requirements. The EPA is also making some minor typographical corrections.

DATES: The final rule is effective February 14, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2002–0047. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/* or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. The EPA has temporarily suspended its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control (CDC), local area health departments, and our Federal partners so that the EPA can respond rapidly as conditions change regarding COVID–19. For further information on EPA Docket Center services and the current status, please visit the docket online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Andy Sheppard, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4161; fax number: (919) 541–0516; and email address: *sheppard.andy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. The EPA uses multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
COVID–19 coronavirus disease of 2019
EPA Environmental Protection Agency
GCCS gas collection and control system
HAP hazardous air pollutants
m3 cubic meter
Mg megagram
MSW municipal solid waste
NMOC nonmethane organic compounds
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RTR risk and technology review
SSM startup, shutdown, and malfunction

RIN Regulatory Information Number
UMRA Unfunded Mandate Reform Act

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the associated regulated industrial source categories that are the subject of this final rule. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this action is likely to affect. The standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities could be affected by this action because these entities are often the owners or operators of MSW landfills. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030; July 1992), the MSW Landfills source category is any facility that is an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive commercial waste, sludges, and industrial waste. An MSW landfill may also receive other types of Resource Conservation and Recovery Act (RCRA) Subtitle D wastes (see 40 CFR 257.2) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned.

Questions regarding the applicability of this final action to a particular entity should be directed to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION

Source category	NAICS code [1]
Industry: Air and water resource and solid waste management	924110
Industry: Refuse systems—solid waste landfills	562212
State, local, and tribal government agencies	562212, 924110

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *https://www.epa.gov/stationary-sources-air-pollution/municipal-solid-waste-landfills-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of this final action at this same website.

C. What is the statutory authority for this action?

The statutory authority for revisions to the MSW Landfills NESHAP (40 CFR part 63, subpart AAAA) is provided by sections 112 and 301 of the Clean Air Act (CAA), as amended (42 U.S.C. 7412 and 7401). The statutory authority for revisions to the MSW Landfills New Source Performance Standards (40 CFR part 60, subpart XXX) and the Federal Plan (40 CFR part 62, subpart OOO) is provided by sections 111 and 301 of the CAA (42 U.S.C. 7411 and 7401).

The EPA finds that it has good cause to make these revisions immediately effective upon publication under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d). Section 553(d) provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . as otherwise provided by the agency for good cause.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (DC Cir. 1996); see also *United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should, ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.'' *Gavrilovic,* 551 F.2d at 1105. The EPA has determined that there is good cause under section 553(d) for making this final rule effective immediately because this action clarifies the regulatory provisions that already apply to regulatory sources as well as the compliance deadline for controlled landfills that become subject to the 2016 MSW Landfills NSPS through modification is September 27, 2021. Making this rule effective immediately upon publication will minimize confusion and increase compliance certainty.

D. Judicial Review

Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by April 15, 2022. Moreover, under section 307(b)(2) of the CAA, the requirements established by

this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements. Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the regulatory development background and legal authority for this action?

The NESHAP regulates HAP emissions from MSW landfills that are either major or area sources, and applies to MSW landfills that have accepted waste since November 8, 1987, or have additional capacity for waste deposition and are major sources, are collocated with major sources, or are area source landfills with a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3) and have estimated uncontrolled emissions equal to or greater than 50 megagrams per year (Mg/yr) of non-methane organic compounds (NMOC). The NESHAP also applies to MSW landfills that have accepted waste since November 8, 1987, or have additional capacity for waste deposition and include a bioreactor and are major sources, are collocated with major sources, or are area source landfills with a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3 that were not permanently closed as of January 16, 2003.

The EPA completed the residual risk and technology review (RTR) for the Municipal Solid Waste (MSW) Landfills source category as regulated under the MSW Landfills NESHAP and promulgated amendments to 40 CFR part 63, subpart AAAA on March 26, 2020. (85 FR 17244). The rule finalized the EPA's determination that risks from this source category are acceptable and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. There were no revisions to the NESHAP based on our analyses conducted under CAA section 112(f). However, the final rule clarified regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); revised wellhead operational standards and corrective action to improve effectiveness and provide compliance flexibility; incorporated provisions from the MSW Landfills NSPS; and added requirements for electronic reporting of performance test results. The EPA subsequently corrected inadvertent errors in the cross-referencing and formatting of the final rule and made minor clarifications to the operational and reporting requirements. (85 FR 64398, October 13, 2020).

In August 2016, the EPA finalized changes to the NSPS for MSW landfills resulting from the EPA's under Clean Air Act (CAA) section 111. In order to avoid possible confusion regarding which MSW landfills would actually be subject to these changes, the EPA established a new subpart XXX (40 CFR part 60, subpart XXX) rather than merely updating the existing subpart WWW (40 CFR part 60, subpart WWW). One of the key changes in the new subpart XXX was the lowering of the emissions threshold for installing controls from 50 megagrams per year (Mg/yr) to 34 Mg/yr. (81 FR 59332, August 29, 2016).

At the same time, the EPA reviewed the existing emission guideline (EG) (subpart Cc) and determined it was appropriate to revise it consistent with the promulgation of the new NSPS subpart XXX. Rather than merely updating subpart Cc, the EPA determined that the most appropriate way to proceed was to establish a new subpart Cf. (81 FR 59276, August 29, 2016).

The promulgation of the MSW landfills EG (subpart Cf) triggered states' obligation to submit state plans applying the updated EG to existing sources located in their states. The EPA found a number of states failed to submit state plans for the 2016 MSW Landfills EG. (85 FR 14474, March 12, 2020). In May of 2021, the EPA promulgated a Federal plan to implement the 2016 MSW Landfills EG for existing MSW landfills located in jurisdications where the EPA had not approved a state or tribal plan. (86 FR 27756, May 21, 2021).

B. What is the purpose of this action?

On April 13, 2021, the EPA proposed technical revisions and clarifications for the NESHAP for MSW Landfills and the EPA proposed clarifying amendments to the MSW Landfills NSPS. See 86 FR 19176. In this action, the EPA finalizes technical revisions and clarifications for the NESHAP for MSW Landfills established in the March 26, 2020, final rule. These technical revisions correct inadvertent errors in the NESHAP for MSW Landfills. This action clarifies the following: Wellhead monitoring requirements for the purpose of identifying excess air infiltration; delegation of authority to state, local, or tribal agencies for ''emission standards;'' applicability of the General Provisions to affected MSW landfills; and handling of monitoring data for combustion devices during periods of monitoring system breakdowns, repairs, calibration checks, and adjustments. This action also amends the MSW Landfills NSPS at 40 CFR part 60, subpart XXX, to clarify the timing of compliance for certain requirements of the MSW Landfills NSPS for existing MSW landfills that have been modified but previously triggered the requirement to install a GCCS under related MSW landfill rules. Additionally, the EPA is revising the definition of Administrator in the MSW Landfills Federal Plan that was promulgated on May 21, 2021, to clarify who is the administrator for the Federal plan and the administrator for a state plan. The EPA is also making some minor typographical corrections to NESHAP and the Federal Plan.

III. Summary of Changes Since Proposal and Response to Comments

The EPA received two comment letters on the proposed revisions to the MSW Landfills NESHAP and NSPS (EPA–HQ–OAR–2002–0047–0111, EPA–HQ–OAR–2002–0047–0112). This section summarizes the EPA's response to those comments and indicates where the EPA has made additional changes to the proposed revisions to the MSW Landfills NESHAP and NSPS, in part, in response to those public comments. The changes include clarifications to the wellhead monitoring requirements [including test methods], and clarifications to the compliance times for various landfills, especially those modifying and becoming subject to 40

CFR part 60, subpart XXX. For more information, see the response to comments document, titled, *Summary of Public Comments and EPA's Responses for the Proposed Corrections to National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills Residual Risk and Technology Review; Correction,* which is available in the docket for this action.

A. Wellhead Monitoring

Comment: Commenter (0111) suggested that the EPA add language to 40 CFR 63.1981(k) to clarify whether or not a 24-hour high temperature report is required for wells with landfill gas temperatures greater than 170 degrees Fahrenheit but less than an approved higher operating value (HOV).

Response: The EPA is amending 40 CFR 63.1981(j)(2) to clarify that the corrective action and corresponding timelines are not required if the landfill has an approved HOV. We added the following phrase to the end of 40 CFR 63.1981 (j)(2): ''unless a higher operating temperature value has been approved by the Administrator for the well under this subpart or under 40 CFR part 60, subpart WWW; 40 CFR part 60, subpart XXX; or a Federal plan or EPA approved and effective state plan or tribal plan that implements either 40 CFR part 60, subpart Cc or 40 CFR part 60, subpart Cf.''

Comment: Commenter (0112) requested that EPA re-evaluate its proposal to require five 1-minute averages to be limited to 7 parts per million (ppm) variance. The commenter (0112) contends that the proposed requirement is unnecessarily prescriptive and says that although this low level of variability may be appropriate for some stationary sources of air emissions, such as controlled manufacturing processes, landfills may experience more variability than this limitation would allow. Commenter (0112) asserted that EPA has neither provided an explanation for why this requirement is necessary, nor shown that it can be achieved by landfills. Moreover, this requirement does not appear to be a necessary clarification or correction but rather an entirely new and unjustified compliance obligation. Therefore, unless and until EPA demonstrates a need for this requirement and that it is achievable by landfills, EPA should not finalize it in this corrections rule.

Response: The EPA believes that a limited variability provision would increase the data quality when collecting samples pursuant to 40 CFR 1961(a)(5)(vi)(D). However, the EPA agrees with the commenter that the CO concentrations can, under certain conditions (*e.g.,* underground fires), exhibit short term CO variability higher than 7 ppm. Therefore, the EPA has removed the 7 ppm variability requirement and may revisit this when more data is available.

Comment: Commenter (0112) requested that the EPA clarify language in 40 CFR 63.1961(a)(5)(vii) directing that enhanced monitoring ''must begin 7 days after the first measurement'' to provide that monitoring ''must begin within 7 days to account for landfill operating hours, including weekends and holidays.''

Response: The EPA has revised 40 CFR 63.1961(a)(5)(vii) to clarify that the requirement is to begin enhanced monitoring 7 *calendar* days after the first measurement of landfill gas temperature greater than 62.8 degrees Celsius (145 degrees Fahrenheit). Decomposition of waste and monitoring a landfill are 24-hour per day/365 day per year operation where conditions change constantly. The EPA determined that it is reasonable and necessary to begin enhanced monitoring within 7 calendar days to keep a check on high temperature conditions in the landfill and minimize the potential for a landfill fire.

B. Compliance Timing

In the proposed rule, the EPA requested comment on whether the proposed modifications to the 2016 MSW Landfills NSPS regulations adequately clarify the expected compliance deadlines for controlled landfills that become subject to the 2016 MSW Landfills NSPS through modification and/or whether other approaches are needed to align the timing provisions of the 2016 MSW Landfills NSPS with the timing provisions of the MSW Landfills NESHAP. (86 FR 19176, 19182, April 13, 2021)

Comment: Commenter (0111) requested that the EPA should specify compliance deadlines for three categories of landfills:

(1) Landfills with an NMOC emission rate less than 34 megagrams per year that become subject to subpart XXX through modification;

(2) uncontrolled landfills with an NMOC emission rate between 34 and 50 megagrams per year that become subject to subpart XXX through modification; and

(3) controlled landfills that become subject to subpart XXX through modification.

Response: The EPA recognizes that from July 17, 2014 (the applicability date of the NSPS) to June 21, 2021 (the effective date of the Federal plan at 40 CFR part 62 subpart OOO), landfills that modify could become subject to 40 CFR part 60, subpart XXX after having previously been subject to 40 CFR part 62, subpart GGG; 40 CFR part 60, subpart WWW; or a state plan implementing 40 CFR part 60, subpart Cf or subpart Cc. By virtue of this final action, the EPA is clarifying that landfills that meet the definition of a ''controlled landfill'' would not receive an additional 30 months to comply when they transition to subpart XXX.

The EPA notes that after June 21, 2021, all three groups of landfills that modify as identified in this comment will have been previously subject only to either a state plan implementing 40 CFR part 62, subpart Cf, or 40 CFR part 62, subpart OOO to 40 CFR part 60, subpart XXX. The EPA is clarifying in this rule that compliance timing for landfills that become subject to subpart XXX after previously being subject to the Federal plan subpart OOO depends on whether the facility is a legacy controlled landfill, a controlled landfill or an uncontrolled landfill, and the results and timing of the landfill's NMOC emission rate report.

Landfills with an NMOC emission rate less than 34 megagrams per year that later become subject to subpart XXX through modification and have not installed controls should follow the requirements in subpart XXX, including the 30-month window to install and operate a GCCS. The landfill will submit their first NMOC report within 90 days of the date of construction or modification. The landfill could submit a revised NMOC report based on Tier 2 within 180 days of that first report, if desired.

For uncontrolled landfills with an NMOC emission rate equal to or greater than 34 but less than 50 megagrams per year that later become subject to subpart XXX through modification, we are clarifying that the 30-month clock for previously uncontrolled landfills will begin at the first report containing NMOC emissions greater than or equal to 34 Mg/yr NMOC that was submitted under any of the following subparts: 40 CFR part 60, subpart XXX or a state plan implementing subpart Cf; or 40 CFR part 62, subpart OOO. We are starting the 30-month clock at the NMOC report submitted under that subpart for these landfills with an NMOC emission rate equal to or greater than 34 but less than 50 megagrams per year because the landfill was not otherwise subject to any requirement to install and operate GCCS until they became subject to these subparts.

For controlled landfills that become subject to subpart XXX through modification, we do not intend to restart the 30-month clock for landfills reporting NMOC emissions greater than or equal to 50 Mg/yr NMOC under 40 CFR part 60, subpart WWW or Cc; or 40 CFR part 62, subpart GGG, and that submitted a design plan before the effective date of these 2021 subpart XXX amendments. These landfills already started the ''control'' process under the previous subparts and must stay on that previously triggered 30-month timeframe to install a GCCS in a timely manner.

Comment: Commenter (0112) disagreed with the EPA's proposal not to allow 30 months to install and operate a GCCS as the landfill transitions to a new subpart. However, the commenter (0112) recognized that landfills with emissions 50 Mg/yr NMOC or greater will be required to begin complying with the same requirements to install and operate GCCS pursuant to NESHAP AAAA as of September 28, 2021.

Response: For controlled landfills that become subject to subpart XXX through modification, the EPA does not agree that it would be appropriate to restart the 30-month clock for landfills reporting NMOC emissions greater than or equal to 50 Mg/yr NMOC under 40 CFR part 60, subpart WWW or Cc; or 40 CFR part 62, subpart GGG and that submitted a design plan before the effective date of these 2021 subpart XXX amendments. These landfills already started the ''control'' process under the previous subparts and it is reasonable to require these landfills to stay on that 30-month timeframe to install a GCCS in a timely manner. The commenter has not provided any information that would justify any further delay in the implementation of GCCS.

Comment: Commenter (0112) disagreed with using any subpart WWW reports between 34 and 50 Mg/yr NMOC as the trigger for the 30-month timeframe for installation of GCCS since this would not allow the landfill sufficient time to prepare a design plan and install the GCCS. The commenter (0112) suggested alternative regulatory text.

Response: The EPA recognizes that previous regulatory requirements are based on an emission rate threshold of 50 Mg/yr NMOC and that newer regulatory requirements are based on an emission rate threshold of 34 Mg/yr NMOC. With these technical revisions, we intend to clarify the application of the 30-month clock for previously uncontrolled landfills reporting NMOC emissions greater than or equal to 34 Mg/yr NMOC and less than 50 Mg/yr NMOC under 40 CFR part 60, subpart XXX or Cf; or 40 CFR part 62, subpart OOO. We are starting the 30-month clock at the NMOC report submitted under those subparts for those landfills that exceeded 34 Mg/yr NMOC because the 34–50 Mg/yr NMOC threshold did not apply until they became subject to these subparts.

However, we do not intend to restart the 30-month clock for landfills reporting NMOC emissions greater than or equal to 50 Mg/yr NMOC under 40 CFR part 60, subpart WWW or Cc; or 40 CFR part 62, subpart GGG and that submitted a design plan before the effective date of these 2021 subpart XXX amendments. These landfills already started the ''control'' process under the previous subparts and it is reasonable to require these landfills to stay on that 30-month timeframe to install a GCCS in a timely manner.

The EPA is revising 40 CFR 60.762(b)(2)(ii)(A) to read as follows:

> (A) The first annual report submitted under this subpart or part 62 of this subchapter in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 60.767(c)(4); or

This approach points to 40 CFR part 60, subpart XXX or 40 CFR part 62 (the Federal plan subpart OOO or state plans implementing subpart Cf). When these subpart XXX amendments are finalized, all ''existing'' landfills will be subject to the state and/or Federal plan implementing subpart Cf because the Federal plan became effective on June 21, 2021. Subpart OOO handles the legacy controllers separately and gives a full 30 months for landfills with NMOC emissions greater than 34 Mg/yr and less than 50 Mg/yr.

C. Technical and Typographical Corrections

In this final action, the EPA is revising the definition of Administrator at 40 CFR 62.16730 in the MSW Landfills Federal Plan that was promulgated on May 21, 2021 (86 FR 27756). The revision makes the definition consistent with other Federal plans such as the Federal Plan Requirements for Sewage Sludge Incineration Units (40 CFR part 62, subpart LLL), which distinguishes between the administrator of the Federal plan and the administrator of a state plan. In developing the MSW Landfills Federal Plan, the EPA inadvertently retained the definition of Administrator from the Emission Guidelines (40 CFR part 60, subpart Cf), which was written in the context of states preparing a state plan. As currently written, the definition could be interpreted to allow non-delegated authority to implement and enforce the Federal plan. In the context of the Federal plan, the revised definition of Administrator clarifies that the EPA Administrator or his/her authorized representative have the authority to implement and enforce the Federal plan. To add clarity in the context of developing State plans, the EPA has further revised the definition of Administrator to clearly identify the director of the state air pollution control agency or his/her authorized representative, which will better allow states to incorporate by reference the Federal plan as their state rule applying to landfills in the state.

The EPA is also correcting typographical errors in the MSW Landfills NESHAP that were published in the **Federal Register** on March 26, 2020 (85 FR 17244) and the MSW Landfills Federal Plan that was published in the **Federal Register** on May 21, 2021 (86 FR 27756). In the MSW Landfills NESHAP, the EPA is correcting 40 CFR 63.1981(n) to change September 2, 2021 to September 27, 2021. In the MSW Landfills Federal Plan, the EPA is correcting a cross reference error in 40 CFR 62.16712(b) and (c). Both paragraphs incorrectly refer to 40 CFR 62.16712(c)(3), which does not exist. The correct reference is to 40 CFR 62.16712(d). Finally, the EPA is correcting the omission of the word ''is'' in 40 CFR 62.16714(a)(4), so that the correct reading is: The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making these technical and typographical changes without prior proposal and opportunity for comment because, as explained here above, the technical correction to the definition of Administrator and the typographical changes are noncontroversial in nature and do not substantively change the requirements of the MSW Landfills regulations. Thus, notice and opportunity for public comment are unnecessary for these changes. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0505 for the NESHAP and OMB control number 2060–0697 for the NSPS. The revisions include technical corrections to the NESHAP and NSPS and do not pose any changes to the information collection burden for either.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities if the rule has no net burden on the small entities subject to the rule. This action includes only technical corrections to provisions from the March 26, 2020, final RTR rulemaking and clarifying amendments to 2016 MSW Landfills NSPS and does not implement new requirements. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Although state, local, or tribal governments own and operate landfills subject to these final amendments, this action includes only technical corrections to provisions from the March 26, 2020, final RTR rulemaking and clarifying amendments to the 2016 MSW Landfills NSPS and there are no impacts resulting from this regulatory action.

E. Executive Order 13132: Federalism

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

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

This action has tribal implications as specified in Executive Order 13175. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments nor preempt tribal law. As explained in the March 26, 2020, final rule, the EPA previously identified one tribe that owns three landfills that are potentially subject to the MSW Landfills NESHAP. However, this action includes only technical corrections to provisions from the March 26, 2020, final RTR rulemaking and clarifying amendments to the subpart XXX NSPS and does not impose any new requirements on tribes.

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

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

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629; February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a technical correction to a previously promulgated regulatory action and does not have any impact on human health or the environment.

K. Congressional Review Act (CRA)

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

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 62

Environmental protection, Administrative practice and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR parts 60, 62, and 63 as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014

■ 2. Amend § 60.761 by revising the definition of ''Controlled landfill'' to read as follows:

§ 60.761 Definitions.

* * * * *

Controlled landfill means any landfill at which collection and control systems

are required under this subpart as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with either § 60.762(b)(2)(i), 40 CFR part 60, subpart WWW, or a Federal plan or EPA approved and effective state plan or tribal plan that implements either 40 CFR part 60, subparts Cc or Cf, whichever regulation first required submission of a collection and control system design plan for the landfill.

* * * * *

■ 3. Amend § 60.762 by revising paragraphs (b)(2)(i) and (b)(2)(ii)(A) to read as follows:

§ 60.762 Standards for air emissions from municipal solid waste landfills.

* * * * *

(b) * * *

(2) * * *

(i) *Calculated NMOC Emission Rate.* Submit an initial or revised collection and control system design plan prepared by a professional engineer to the Administrator as specified in § 60.767(c) or (d); calculate NMOC emissions using the next higher tier in § 60.764; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.764(a)(6). The collection and control system must meet the requirements in paragraphs (b)(2)(ii) and (iii) of this section.

(ii) * * *

(A) The first annual report submitted under this subpart or part 62 of this subchapter in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 60.767(c)(4); or

* * * * *

■ 4. Amend § 60.767 by revising paragraph (d) introductory text to read as follows:

§ 60.767 Reporting requirements.

* * * * *

(d) *Revised design plan.* The owner or operator who has already been required to submit a design plan under paragraph (c) of this section, subpart WWW of this part, or a Federal plan or EPA-approved and effective state plan or tribal plan that implements subparts Cc or Cf of this part, must submit a revised design plan to the Administrator for approval as follows:

* * * * *

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

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

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

Subpart OOO—Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014

■ 6. Amend § 62.16712 by revising paragraph (b) and paragraph (c) introductory text to read as follows:

§ 62.16712 Compliance schedule and increments of progress.

* * * * *

(b) *Compliance date.* For each designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year (50 megagrams per year for closed landfill subcategory), planning, awarding of contracts, and installation of municipal solid waste landfill air emission collection and control equipment capable of meeting the standards in § 62.16714(b) and (c) must be accomplished within 30 months after the date the initial emission rate report (or the annual emission rate report) first shows that the NMOC emission rate equals or exceeds 34 megagrams per year (50 megagrams per year for closed landfill subcategory), except as provided in § 62.16712(d).

(c) *Compliance schedules.* The owner or operator of a designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year (50 megagrams per year for closed landfill subcategory) must achieve the increments of progress specified in paragraphs (a)(1) through (5) of this section according to the schedule specified in paragraph (c)(1), (2), or (d) of this section.

* * * * *

■ 7. Amend § 62.16714 by revising paragraph (a)(4) to read as follows:

§ 62.16714 Standards for municipal solid waste landfill emissions.

(a) * * *

(4) *Closed subcategory.* The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year.

* * * * *

■ 8. Amend § 62.16730 by revising the definition of ''Administrator'' to read as follows:

§ 62.16730 Definitions.

* * * * *

Administrator means:

(1) For municipal solid waste landfills covered by the federal plan, the Administrator of the EPA or his/her authorized representative (*e.g.,* delegated authority);

(2) For municipal solid waste landfills covered by an approved state plan, the director of the state air pollution control agency or his/her authorized representative.

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 9. The authority citation for part 63 continues to read as follows:

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

Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills

■ 10. Amend § 63.1960 by revising paragraph (a)(4)(i) introductory text to read as follows:

§ 63.1960 Compliance provisions.

(a) * * *

(4) * * *

(i) Once an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with the operational standard for temperature in § 63.1958(c)(1), the owner or operator must monitor each well monthly for temperature for the purpose of identifying whether excess air infiltration exists. If a well exceeds the operating parameter for temperature as provided in § 63.1958(c)(1), action must be initiated to correct the exceedance within 5 days. Any attempted corrective measure must not cause exceedances of other operational or performance standards.

* * * * *

■ 11. Amend § 63.1961 by revising paragraphs (a)(5)((vi) introductory text and (a)(5)(vi)(A), adding paragraphs (a)(5)(vi)(C) and (D), and revising paragraph (a)(5)(vii) to read as follows:

§ 63.1961 Monitoring of operations.

* * * * *

(a) * * *

(5) * * *

(vi) Monitor and determine carbon monoxide concentrations, as follows:

(A) Collect the sample from the wellhead sampling port in a passivated canister or multi-layer foil gas sampling bag (such as the Cali-5-Bond Bag) and analyze that sample using EPA Method 10 of appendix A–4 to part 60 of this chapter, or an equivalent method with a detection limit of at least 100 ppmv of carbon monoxide in high concentrations of methane; or

* * * * *

(C) When sampling directly from the wellhead, you must sample for 5 minutes plus twice the response time of the analyzer. These values must be recorded. The five 1-minute averages are then averaged to give you the carbon monoxide reading at the wellhead.

(D) When collecting samples in a passivated canister or multi-layer foil sampling bag, you must sample for the period of time needed to assure that enough sample is collected to provide five (5) consecutive, 1-minute samples during the analysis of the canister or bag contents, but no less than 5 minutes plus twice the response time of the analyzer. The five (5) consecutive, 1-minute averages are then averaged together to give you a carbon monoxide value from the wellhead.

(vii) The enhanced monitoring described in this paragraph (a)(5) must begin 7 calendar days after the first measurement of landfill gas temperature greater than 62.8 degrees Celsius (145 degrees Fahrenheit); and

* * * * *

■ 12. Amend § 63.1975 by revising the introductory text to read as follows:

§ 63.1975 How do I calculate the 3-hour block average used to demonstrate compliance?

Before September 28, 2021, averages are calculated in the same way as they are calculated in § 60.758(b)(2)(i) of this subchapter for average combustion temperature and § 60.758(c) for 3-hour average combustion temperature for enclosed combustors, except that the data collected during the events listed in paragraphs (a) through (d) of this section are not to be included in any average computed under this subpart. Beginning no later than September 27, 2021, averages are calculated according to § 63.1983(b)(2)(i) for average combustion temperature and § 63.1983(c)(1)(i) for 3-hour average combustion temperature for enclosed combustors, except that the data collected during the event listed in paragraph (a) of this section are not to be included in any average computed under this subpart.

* * * * *

■ 13. Amend § 63.1981 by revising paragraph (j)(2) and paragraph (n) introductory text to read as follows:

§ 63.1981 What reports must I submit?

* * * * *

(j) * * *

(2) For corrective action that is required according to § 63.1960(a)(3) or (4) and is expected to take longer than 120 days after the initial exceedance to complete, you must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 62.8 degrees Celsius (145 degrees Fahrenheit) or above unless a higher operating temperature value has been approved by the Administrator for the well under this subpart or under 40 CFR part 60, subpart WWW; 40 CFR part 60, subpart XXX; or a Federal plan or EPA approved and effective state plan or tribal plan that implements either 40 CFR part 60, subpart Cc or 40 CFR part 60, subpart Cf. The Administrator must approve the plan for corrective action and the corresponding timeline.

* * * * *

(n) *Claims of force majeure.* Beginning no later than September 27, 2021, if you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to comply timely with the reporting requirement. To assert a claim of force majeure, you must meet the following requirements:

* * * * *

■ 14. Amend § 63.1985 by revising paragraph (c) to read as follows:

§ 63.1985 Who enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to state, local, or tribal agencies are as follows. Approval of alternatives to the emission standards in §§ 63.1955 through 63.1962. Where this subpart references part 60, subpart WWW of this subchapter, the cited provisions will be delegated according to the delegation provisions of part 60, subpart WWW of this subchapter. For this subpart, the EPA also retains the authority to approve methods for determining the NMOC concentration in § 63.1959(a)(3) and the method for determining the site-specific methane generation rate constant k in § 63.1959(a)(4).

■ 15. Amend table 1 to subpart AAAA of part 63 by:

■ a. Revising the entry for ''§ 63.6(f)(1)'';

■ b. Removing the entries for ''§ 63.10(b)(vi)'' and ''§ 63.10(b)(vii)–(xiv)'' and adding in their places entries for ''§ 63.10(b)(2)(vi)'' and ''§ 63.10(b)(2)(vii)–(xiv)'', respectively; and

■ c. Revising the entry for ''§ 63.10(d)(3)''.

The revisions and additions read as follows:

Table 1 to Subpart AAAA of Part 63—Applicability of NESHAP General Provisions to Subpart AAAA

* * * * *

TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA

Part 63 citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
*	* * *	*	*	*
§ 63.6(f)(1)	Exemption of nonopacity emission standards during SSM.	No	No.	
*	* * *	*	*	*
§ 63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	No[1]	Yes.	
§ 63.10(b)(2)(vii)–(xiv)	Other Recordkeeping of compliance measurements.	No[1]	Yes.	
*	* * *	*	*	*
§ 63.10(d)(3)	Reporting of visible emission observations	No[1]	No.	

TABLE 1 TO SUBPART AAAA OF PART 63—APPLICABILITY OF NESHAP GENERAL PROVISIONS TO SUBPART AAAA—Continued

Part 63 citation	Description	Applicable to subpart AAAA before September 28, 2021	Applicable to subpart AAAA no later than September 27, 2021	Explanation
*	*	*	*	*	*	*

[1] Before September 28, 2021, this subpart requires affected facilities to follow part 60, subpart WWW of this subchapter, which incorporates the General Provisions of part 60 of this subchapter.

[FR Doc. 2022–02654 Filed 2–11–22; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 02–6; FCC 22–8; FR ID 70414]

Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) takes steps to address one of the barriers to participation and clarify the eligibility of Tribal libraries for E-Rate program support by updating the definition of ''library'' in its E-Rate program rules to include Tribal libraries. By doing so, the Commission seeks to resolve a longstanding issue for Tribal libraries in the E-Rate program rules, consistent with Congressional action taken in 2018, and to encourage increased Tribal library access to affordable broadband connectivity through the E-Rate program.

DATES: Effective March 16, 2022.

FOR FURTHER INFORMATION CONTACT: Kate Dumouchel, Wireline Competition Bureau, (202) 418–7400 or by email at *Kate.Dumouchel@fcc.gov.* The Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in CC Docket No. 02–6; FCC 22–8, adopted January 27, 2022 and released January 28, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://www.fcc.gov/document/fcc-connecting-tribal-libraries-through-e-rate-program-0.*

I. Introduction

1. The E-Rate program provides support to schools and libraries across the nation to obtain affordable, high-speed broadband services and internal connections to connect today's students and library patrons with next-generation learning opportunities and services. Since the beginning of the program, E-Rate support has helped libraries afford these services and provide free, public internet access to their communities. But for far too long, Tribal libraries have been unable to participate fully in the E-Rate program. This situation has exacerbated enduring inequities, as Tribal libraries often serve as a critical source of internet access in underserved areas across the nation.

2. The Commission takes steps to address one of the barriers to participation and clarify the eligibility of Tribal libraries for E-Rate program support by updating the definition of ''library'' in its E-Rate program rules to include Tribal libraries. By doing so, the Commission seeks to resolve a longstanding issue for Tribal libraries in the E-Rate program rules, consistent with Congressional action taken in 2018, and to encourage increased Tribal library access to affordable broadband connectivity through the E-Rate program.

II. Discussion

3. To ensure that our nation's Tribal libraries and their library patrons have access to high-speed broadband and to encourage Tribal libraries' participation in the E-Rate program, the Commission now amends its E-Rate program rules to clarify that Tribal libraries are eligible for E-Rate support. Specifically, the Commission adds ''Tribal library'' to the definition of library in section 54.500 of the Commission's rules and removes the reference to Public Law 104–208, which contains the version of the Library Services and Technology Act (LSTA) enacted in 1996. All stakeholders submitting comments support this rule change, and no commenter opposed it.

4. Interested parties agree that this rule change is the first step in ensuring that Tribal libraries have access to funding to provide affordable internet access to their communities. These changes update the E-Rate program rules and ensure that the E-Rate program can support library services in Tribal communities. The changes align with both Congress' 2018 amendments to the LSTA and the Commission's Emergency Connectivity Fund program rules. Moreover, the changes will simplify administration of the E-Rate and Emergency Connectivity Fund programs for the Universal Service Administrative Company (USAC), which administers both programs and checks applicant eligibility. Consistent with the rules adopted for the Emergency Connectivity Fund program, the E-Rate rules clarify that Tribal libraries, which are by statute eligible for support from State library administrative agencies under the LSTA, are eligible for support from the E-Rate program. Receipt of LSTA funds by Tribal libraries is not required for participation in the E-Rate program.

5. These rule changes should also clarify and simplify E-Rate eligibility for Tribal libraries and, in time, will increase Tribal participation in the program. Comments filed by the American Library Association (ALA) and the Association of Tribal Archives, Libraries and Museums (ATALM) include preliminary results of a 2021 ATALM comprehensive digital inclusion survey, which note that only 12 percent of the Tribal libraries responding reported that they had ever applied, even fewer than the 15 percent of Tribal libraries that had previously reported receiving E-Rate support. This data is especially troubling, given that there is reduced broadband access in Tribal areas and libraries are often the ''next best alternative for many Tribal families and households'' to obtain internet access. Tribal governments and libraries have had issues interacting with and gaining support from State

agencies. The Navajo Nation Telecommunications Regulatory Commission (NNTRC) describes how the Navajo Nation, which spans three states, began an internal process in 2018 to participate in the E-Rate program by engaging with the State library administrative agencies in Arizona, New Mexico, and Utah to establish whether its Chapter Houses were libraries eligible for assistance from those State library administrative agencies under the LSTA. NNTRC explains that it took several years and significant resources to determine eligibility, which it argues could have been avoided if the rules the Commission adopts here had been in place then.

6. Several commenters asked the Commission to clarify who can designate a Tribal library or to interpret the definition of Tribal library in a flexible manner. First, the Commission agrees that Tribal libraries can be designated by a Tribal Council. Second, the Commission understands that ''what constitutes a library is reflective of the cultural, educational, and social needs of each tribe,'' but also remind applicants that they must be eligible by statute for support under the LSTA to be eligible to participate in E-Rate. The Institute of Museum and Library Services, the federal agency with expertise in the LSTA and that provides Native American library grants, requires Native American libraries applying for Native American Library Services Enhancement Grants to demonstrate that they have three basic characteristics: ''(1) regularly scheduled hours, (2) staff, and (3) materials available for library users.'' The Commission believes that these characteristics are therefore appropriate for Tribal libraries seeking support from the E-Rate program. In response to commenters seeking eligibility for Tribal College libraries, the Commission reminds applicants that when the Commission first adopted its rules on library eligibility for E-Rate discounts, it determined that libraries must be independent entities, ''whose budgets are completely separate from any schools (including, but not limited to elementary schools, colleges, and universities.'' As such, Tribal libraries that are part of a Tribal College or university remain ineligible for E-Rate support at this time.

7. On the whole, the Commission expects this rule change to simplify the process for Tribal libraries to apply for E-Rate funding by clarifying their eligibility without requiring Tribal libraries to fit within the precise definitions that may be put in place by a State library administrative agency. By making Tribal library eligibility clear, the Commission aims to further the program goal of ensuring affordable access to high-speed broadband sufficient to support robust connectivity for Tribal libraries by increasing participation in the E-Rate program. The Commission also furthers the Commission's ongoing obligation to advance digital equity for all, including Indigenous and Native American persons, people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality. By lowering the barriers to participating in the E-Rate program, the Commission hopes to narrow the digital divide in Tribal regions, ''where increased digital inclusion will yield economic, educational, and healthcare outcome improvements.''

8. *Outreach.* Preliminary results of the 2021 ATALM comprehensive digital inclusion survey of Tribal libraries included in ALA and ATALM's comments show that ''38% of respondents had not heard of the E-rate program, 30% were unsure if they were eligible, 13% said the application was too complicated, and 39% would like to learn more about the program.'' The Commission agrees with commenters that these numbers demonstrate that the Commission needs to do more to increase awareness of the program and training opportunities among Tribal libraries. Therefore, in conjunction with this rule change, the Commission directs the Office of Native Affairs and Policy (ONAP) and the Wireline Competition Bureau (WCB), with assistance from the Tribal liaison at USAC, to target outreach efforts and program training for Tribal libraries.

9. Tribal library applicants face particular resource challenges in applying. Therefore, in addition to existing Tribal training materials, the Commission directs USAC, in coordination with ONAP and WCB, to develop training materials targeting Tribal libraries that may be provided during Tribal-specific outreach, as well as to its federal partners, like the Institute of Museum and Library Services, to build awareness and provide information about how to apply before the close of the funding year 2022 application filing window. In creating these targeted outreach goals, the Commission directs USAC to develop training materials focused on first-time E-Rate library applicants and to distribute these materials at national, regional, or local Tribal or library conferences. The Commission also directs ONAP and WCB to undertake efforts to coordinate with organizations like the ALA, ATALM, the American Indian Library Association and the Chief Officers of the State Library Agencies to spread awareness in the current and upcoming funding years.

10. *Measuring Participation.* Adopting these rule changes and targeting specific Tribal library outreach are important steps towards the Commission's goal of increasing participation and access to E-Rate support for Tribal libraries. The Commission also, consistent with the recommendation from the Government Accountability Office in 2016, seeks to determine whether the Commission is successfully achieving the E-Rate program's goals, including ensuring affordable access to high-speed broadband sufficient to support robust connectivity for all libraries and making the program's processes fast, simple, and efficient. To do so, the Commission now adopts new measures for these two goals by specifically measuring participation of Tribal libraries in future funding years and the speed of processing Tribal library applications, and the Commission directs USAC to measure progress towards achieving the Commission's program goals. By creating specific Tribal library participation performance measures, the Commission can monitor performance of the E-Rate program over time and assess whether the Commission's rules, policies, and outreach need to be revisited to draw more Tribal library applicants into the program.

11. *Other Issues Raised.* The importance of this rule clarification, combined with the E-Rate program's funding year calendar—which generally accepts funding applications during the first quarter of the calendar year for the upcoming school year—make speedy action critical. Therefore, to ensure these rule changes are effective before the close of the funding year 2022 E-Rate application filing window, the Commission declines to address several of the issues raised by comments to the *Tribal Libraries Notice of Proposed Rulemaking (NPRM),* 86 FR 57097, October 14, 2021, regarding the E-Rate program at this time. The Commission appreciates the many comments raising broader issues with the E-Rate program and look forward to revisiting these issues.

III. Procedural Matters

12. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant

economic impact on a substantial number of small entities by the policies and rules proposed in the Schools and Libraries Universal Service Support Mechanism notice of proposed rulemaking, *Tribal Libraries NPRM.* The Commission sought written public comment on the proposals in the *Tribal Libraries NPRM,* including comment on the IRFA. The Commission did not receive any relevant comments in response to this IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

13. The Commission is required by Section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of Section 254. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets moved toward competition. Specifically, under the schools and libraries universal service support mechanism, also known as the E-Rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may receive discounts for eligible telecommunications services, internet access, and internal connections.

14. Taking steps to close the digital divide is a top priority for the Commission. The E-Rate program provides a vital source of support to schools and libraries, ensuring that students and library patrons across the nation have access to high-speed broadband and essential communications services. In this document, the Commission updates the E-Rate program rules to be consistent with the amended Library Services and Technology Act (LSTA), and clarify that Tribal libraries are eligible to apply for and receive E-Rate funding.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

15. There were no comments filed that specifically address the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

16. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rule(s) in this proceeding.

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

17. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

18. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

19. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

20. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicates that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

1. Schools and Libraries

21. As noted, a ''small entity'' includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally ''a non-profit institutional day or residential school that provides elementary education, as determined under state law.'' A secondary school is generally defined as ''a non-profit institutional day or residential school that provides secondary education, as determined under state law,'' and not offering education beyond grade 12. A library includes ''(1) a public library, (2) a public elementary school or secondary school library, (3) an academic library, (4) a research library, ... and (5) a private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.'' The rule changes adopted in this document update the definition of library to add Tribal libraries. For-profit schools and libraries, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools and libraries having $6 million or less in annual receipts as small entities. In funding year 2017, approximately 103,699 schools and 11,810 libraries received funding under the schools and libraries universal service mechanism. Although the Commission is unable to estimate with precision the number of these entities that would qualify as small entities under SBA's size standard, the Commission estimates that fewer than 103,699 schools and 11,810 libraries

might be affected annually by its action, notwithstanding the fact that more Tribal libraries may be encouraged to apply for funding under the rule change in the Report and Order.

2. Telecommunications Service Providers

22. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including voice over internet protocol (VoIP) services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

23. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications'', which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by its action can be considered small.

24. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

25. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees and 12 firms had 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that a majority of these entities can be considered small. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, based on Commission data, more than half of these entities can be considered small.

3. Internet Service Providers (ISPs)

26. *Internet Service Providers (Broadband).* Broadband internet service providers include wired (*e.g.,* cable, digital subscriber line (DSL)) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of Wired Telecommunication Carriers. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, under this size standard the majority of firms in this industry can be considered small.

27. *Internet Service Providers (Non-Broadband).* internet access service providers such as Dial-up internet service providers, VoIP service providers using client-supplied telecommunications connections and internet service providers using client-supplied telecommunications connections (*e.g.,* dial-up ISPs) fall in the category of All Other Telecommunications. The SBA has developed a small business size standard for All Other Telecommunications which consists of all such firms with gross annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Consequently, under this size standard a majority of firms in this industry can be considered small.

4. Vendors of Internal Connections

26. *Vendors of Infrastructure Development or Network Buildout.* The Commission has not developed a small business size standard specifically directed toward manufacturers of network facilities. There are two applicable SBA categories in which manufacturers of network facilities could fall and each have different size standards under the SBA rules. The SBA categories are ''Radio and Television Broadcasting and Wireless Communications Equipment'' with a size standard of 1,250 employees or less and ''Other Communications Equipment Manufacturing'' with a size standard of 750 employees or less.'' U.S. Census

Bureau data for 2012 shows that for Radio and Television Broadcasting and Wireless Communications Equipment firms 841 establishments operated for the entire year. Of that number, 828 establishments operated with fewer than 1,000 employees, and 7 establishments operated with between 1,000 and 2,499 employees. For Other Communications Equipment Manufacturing, U.S. Census Bureau data for 2012 shows that 383 establishments operated for the year. Of that number 379 operated with fewer than 500 employees and 4 had 500 to 999 employees. Based on this data, the Commission concludes that the majority of Vendors of Infrastructure Development or ''Network Buildout'' are small.

27. *Telephone Apparatus Manufacturing.* This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be stand-alone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless and wire telephones (except cellular), private branch exchange (PBX) equipment, telephone answering machines, local area network (LAN) modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways. The SBA has developed a small business size standard for Telephone Apparatus Manufacturing, which consists of all such companies having 1,250 or fewer employees. U.S. Census Bureau data for 2012 shows that there were 266 establishments that operated that year. Of this total, 262 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

28. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, global positioning system (GPS) equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

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

29. The rules adopted in the Report and Order will not result in modified reporting, recordkeeping, or other compliance requirements for small or large entities. In this document, the Commission updates the E-Rate program rules to make clear that Tribal libraries are eligible to apply for and receive E-Rate funding, as well as funding from the Emergency Connectivity Fund program. These changes will produce requirements that are equal to existing requirements, and the Commission does not believe small entities will have to hire attorneys, engineers, consultants, or other professionals in order to comply. Updating the E-Rate program rules to adopt the amended definition of library under the LSTA, for example, will clarify that Tribal libraries are eligible for support by statute. Moreover, this clarity may also alleviate some of the issues that Tribal libraries face when seeking E-Rate support.

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

30. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

31. In the Report and Order, the Commission has taken steps to minimize the economic impact on small entities with the rule changes that the Commission has adopted. Under the current E-Rate rules, only libraries eligible for assistance from a State library administrative agency under the 1996 version of the LSTA are eligible for E-Rate funding. Absent a rule change, Tribal libraries continue to face uncertainty about eligibility which leads to them being underrepresented among E-Rate applicants. The Commission has therefore updated the rules to add Tribal libraries to the definition of library, which may encourage Tribal libraries to apply for and receive E-Rate support. In addition, Tribal libraries will have less difficulty determining eligibility than they have in the past.

G. Report to Congress

32. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

33. *Paperwork Reduction Act.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

34. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

IV. Ordering Clauses

35. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1 through 3, 201–202, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–153, 201–202, 254, and 303(r), the Report and Order *is adopted,* and §§ 54.500 and 54.501(b)(1) of the Commission's rules, 47 CFR 54.500 and 54.501(b)(1), *are amended* as set forth and such rule amendments shall be effective March 16, 2022.

36. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of

the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

37. *It is further ordered* that the Commission *shall send* a copy of the Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Final Rules

For the reasons set forth above, part 54 of title 47 of the Code of Federal Regulations is amended as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, and 1601–1609, unless otherwise noted.

■ 2. Amend § 54.500 by revising the definition of ''Library'' to read as follows:

§ 54.500 Terms and definitions.

* * * * *

Library. A ''library'' includes:

(1) A public library;

(2) A public elementary school or secondary school library;

(3) A Tribal library;

(4) An academic library;

(5) A research library, which for the purpose of this section means a library that:

(i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) Is not an integral part of an institution of higher education; and

(6) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

* * * * *

■ 3. Amend § 54.501 by revising paragraph (b)(1) to read as follows:

§ 54.501 Eligible recipients.

* * * * *

(b) * * *

(1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (20 U.S.C. 9122) and not excluded under paragraph (b)(2) or (3) of this section shall be eligible for discounts under this subpart.

* * * * *

[FR Doc. 2022–03057 Filed 2–11–22; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 87, No. 30
Monday, February 14, 2022

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–SC–21–0086; SC22–985–1 PR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2022–2023 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to establish salable quantities and allotment percentages for Class 1 (Scotch) and Class 3 (Native) spearmint oil produced in Washington, Idaho, Oregon, and designated parts of Nevada and Utah (the Far West) for the 2022–2023 marketing year.

DATES: Comments must be received by April 15, 2022.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be submitted via the internet at: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the record and the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This proposed action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule amends Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. Part 985 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of spearmint oil producers operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of regulatory alternatives and, if regulation is necessary, to select a regulatory approach likely to maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions of Executive Order 12866. It emphasizes the importance of seeking the views of those who are likely to be affected by proposed regulation, providing an opportunity for public comment, and basing regulatory actions on a consideration of objective scientific, technical, and economic data.

This proposed action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. Under the Order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would establish quantities and allotment percentages for Scotch and Native spearmint oil for the 2022–2023 marketing year, which begins on June 1, 2022.

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

Pursuant to the requirements in § 985.50 of the Order, the Committee meets each year to consider supply and demand of spearmint oil and to adopt a marketing policy for the ensuing marketing year. In determining such marketing policy, the Committee considers several factors, including, but not limited to, the current and projected supply of oil, estimated future demand, production costs, and producer prices for both classes of spearmint oil. Input from spearmint oil handlers and producers are considered as well.

Pursuant to the provisions in § 985.51, when the Committee's marketing policy considerations indicate a need to establish or to maintain stable market conditions through volume regulation, the Committee subsequently recommends to USDA the establishment of a salable quantity and allotment percentage for such class or classes of oil for the upcoming marketing year. Recommendations for volume control are intended to ensure market requirements for Far Wear spearmint oil are satisfied and orderly marketing conditions are maintained.

Section 985.12 defines salable quantity as the total quantity of each class of oil (Scotch or Native) which handlers may purchase from, or handle on behalf of, producers during a given marketing year. A producer's allotment base is their calculated share of the spearmint oil market based on a statistical representation of past spearmint oil production, with accommodation for reasonable, normal adjustments to such base as prescribed by the Committee and approved by USDA. Each producer's annual allotment of salable spearmint oil is calculated by multiplying their respective allotment base for each class of spearmint oil by the allotment percentage for that class of spearmint oil. The allotment percentage is the percentage used to calculate each producer's prorated share of the salable quantity and is derived by dividing the salable quantity for each class of spearmint oil by the total of all producers' allotment base for the same class of oil. The total allotment base is revised each year on June 1 to account for producer base being lost as a result of the ''bona fide effort'' production provision of § 985.53(e) and additional base made available pursuant to the provisions of § 985.153.

Salable quantities and allotment percentages are established at levels intended to fulfill market requirements and to maintain orderly marketing conditions. Committee recommendations for volume control are made in advance of the upcoming marketing year in which the regulations are to be effective, thereby allowing producers ample time to adjust their production decisions accordingly.

The Committee met on October 13, 2021, to consider its marketing policy for the 2022–2023 marketing year. At that meeting, the Committee determined that, based on the current market and supply conditions, volume regulation for both classes of oil would be necessary. The Committee unanimously recommended a salable quantity and allotment percentage for Scotch spearmint oil of 832,546 pounds and 37 percent and a salable quantity and allotment percentage for Native spearmint oil of 1,101,269 pounds and 43 percent.

This proposed action would establish the amount of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2022–2023 marketing year, which begins on June 1, 2022. Salable quantities and allotment percentages have been placed into effect each season since the Order's inception in 1980.

Scotch Spearmint Oil

The Committee recommended a Scotch spearmint oil salable quantity of 832,546 pounds and an allotment percentage of 37 percent for the 2022–2023 marketing year. The proposed 2022–2023 marketing year salable quantity of 832,546 pounds is 14,138 pounds less than the 2021–2022 marketing year salable quantity of 846,684 pounds. The allotment percentage, recommended at 37 percent for the 2022–2023 marketing year, is one percent less than the percentage in effect the previous year. The total allotment base for the coming marketing year is estimated to be 2,250,124 pounds. This figure represents a one-percent increase over the revised 2021–2022 marketing year total allotment base of 2,227,846 pounds. The salable quantity (832,546 pounds) is the product of total allotment base (2,250,124 pounds) times the allotment percentage (37 percent).

The Committee considered several factors in making its recommendation, including the current and projected future supply, estimated future demand, production costs, and producer prices. The Committee's recommendation also accounts for the established acreage of Scotch spearmint, consumer demand, existing carry-in, reserve pool volume, and increased production in competing markets.

According to the Committee, as costs of production have increased and spearmint oil prices have decreased, many producers have forgone new plantings of Scotch spearmint. This has resulted in a significant decline in production of Scotch spearmint oil in recent years. Production has decreased from 1,113,346 pounds produced in 2016 to an estimated 556,559 pounds of Scotch spearmint production in 2021.

Industry reports indicate that trade demand for Far West Scotch spearmint oil has diminished over the past five years as international markets for spearmint-flavored products have slowed. Sales of Far West Scotch spearmint oil have declined from 1,060,232 pounds during the 2014–2015 marketing year to 717,952 pounds in 2018–2019, and further to 488,484 pounds in 2020–2021, the last full year of available data. In addition to declining spearmint oil demand, increasing production of Scotch spearmint oil in competing markets, most notably by Canadian producers, has put additional downward pressure on the Far West Scotch spearmint oil market.

Given the anticipated market conditions for the coming year, the Committee estimates that Scotch spearmint oil trade demand for the 2022–2023 marketing year trade will be 650,000 pounds, which is 25,000 pounds higher than the prior year estimate and right in line with the 5-year moving sales average of 650,033 pounds. Should the proposed volume regulation levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases, as it has in previous marketing years.

The Committee calculated the minimum salable quantity of Scotch spearmint oil that would be required during the 2022–2023 marketing year (311,105 pounds) by subtracting the estimated salable carry-in on June 1, 2022, (338,895 pounds) from the estimated trade demand (650,000 pounds). This minimum salable quantity represents the estimated minimum amount of Scotch spearmint oil that would be needed to satisfy estimated trade demand for the coming year. To ensure that the market would be fully supplied, the Committee recommended a 2022–2023 marketing year salable quantity of 832,546 pounds. The recommended salable quantity, combined with an estimated 338,895 pounds of salable carry-in from the previous year, would yield a total available supply of 1,171,441 pounds of Scotch spearmint oil for the 2022–2023 marketing year. With the recommended salable quantity and current market environment, the Committee estimates that as much as 521,441 pounds of salable Scotch spearmint oil could be carried into the 2022–2023 marketing year.

Salable carry-in is the primary measure of excess spearmint oil supply under the Order, as it represents overproduction in prior years that is currently available to the market without restriction. Under volume regulation, spearmint oil that is designated as salable continues to be available to the market until it is sold and may be marketed at any time at the discretion of the owner.

The Committee estimates that there will be 338,895 pounds of salable carry-in of Scotch spearmint oil on June 1, 2022. If current market conditions are maintained and the Committee's projections are correct, salable carry-in would increase to 521,441 pounds at the beginning of the 2022–2023 marketing year. This level would be above the quantity that the Committee generally considers favorable (150,000 pounds). However, the Committee believes that, given the current economic conditions in the Scotch spearmint oil industry, some Scotch spearmint oil producers may not produce enough oil in the 2022–2023 marketing year to fill all of their annual allotment. The Committee estimates that as much as 280,671 pounds of 2021–2022 marketing year annual allotment may not be filled by producers. While the Committee has not projected unused base allotment for the upcoming 2022–2023 marketing year, it anticipates that the actual quantity of Scotch spearmint oil carried into the following marketing year will be less than the quantity calculated above (521,441 pounds).

Spearmint oil held in reserve is oil that has been produced in excess of a producer's annual allotment, either in the current marketing year or in prior years. After December 1 of each marketing year, reserve pool oil is not available to the market in the current marketing year without an increase in the salable quantity and allotment percentage. However, reserve oil may be released for limited market development projects with approval of the Secretary. Oil held in the reserve pool is another indicator of excess supply. Scotch spearmint oil held in the reserve pool was 72,361 pounds as of May 31, 2021, up from 67,645 pounds as of May 31, 2020. This quantity of reserve pool oil should be an adequate buffer to supply the market, if necessary, should the industry experience an unexpected increase in demand.

The Committee recommended an allotment percentage of 37 percent for the 2022–2023 marketing year for Scotch spearmint oil. During its October 13, 2021, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (311,105 pounds) by the total estimated allotment base (2,250,124 pounds), resulting in 13.8 percent. However, producers and handlers at the meeting indicated that the computed percentage (13.8 percent) might not adequately supply potential 2022–2023 Scotch spearmint oil market demand and may also result in a less than desirable carry-in for the subsequent marketing year. After deliberation, the Committee recommended an allotment percentage of 37 percent. The total estimated allotment base (2,250,124 pounds) for the 2022–2023 marketing year, multiplied by the recommended salable allotment percentage (37 percent), yields 832,546 pounds, which is the recommended salable quantity for the 2022–2023 marketing year.

The 2022–2023 marketing year computational data for the Committee's recommendations is detailed below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2022: 338,895 pounds.* This figure is the difference between the 2021–2022 marketing year total available supply of 963,895 pounds and the revised 2021–2022 marketing year estimated trade demand of 625,000 pounds.

(B) *Estimated trade demand of Scotch spearmint oil for the 2022–2023 marketing year: 650,000 pounds.* This figure was established at the Committee meeting held on October 13, 2021.

(C) *Salable quantity of Scotch spearmint oil required from the 2022–2023 marketing year production: 311,105 pounds.* This figure is the difference between the estimated 2022–2023 marketing year trade demand (650,000 pounds) and the estimated carry-in on June 1, 2021 (338,895 pounds). This salable quantity represents the minimum amount of Scotch spearmint oil that would be needed to satisfy estimated demand for the coming year.

(D) *Total estimated Scotch spearmint oil allotment base of for the 2022–2023 marketing year: 2,250,124 pounds.* This figure represents a one-percent increase over the 2021–2022 total actual allotment base of 2,227,846 pounds, as prescribed by § 985.53(d). The one-percent increase equals 22,278 pounds. This total estimated allotment base is revised each year on June 1 in accordance with § 985.53(e).

(E) *Computed Scotch spearmint oil allotment percentage for the 2022–2023 marketing year: 13.8 percent.* This percentage is computed by dividing the minimum required salable quantity (311,105 pounds) by the total estimated allotment base (2,250,124 pounds).

(F) *Recommended Scotch spearmint oil allotment percentage for the 2022–2023 marketing year: 37 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (13.8 percent) and input from producers and handlers at the October 13, 2021, meeting. The recommended 37 percent allotment percentage reflects the Committee's belief that the computed percentage (13.8 percent) may not adequately supply the anticipated 2022–2023 marketing year Scotch spearmint oil market demand.

(G) *Recommended Scotch spearmint oil salable quantity for the 2022–2023 marketing year: 832,546 pounds.* This figure is the product of the recommended salable allotment percentage (37 percent) and the total estimated allotment base (2,250,124 pounds) for the 2022–2023 marketing year.

(H) *Estimated total available supply of Scotch spearmint oil for the 2022–2023 marketing year: 1,171,441 pounds.* This figure is the sum of the 2022–2023 marketing year recommended salable quantity (832,546 pounds) and the estimated carry-in on June 1, 2021 (338,895 pounds).

For the reasons stated above, the Committee believes that the recommended salable quantity and allotment percentage would adequately satisfy trade demand, would result in a reasonable carry-in for the following year, and would contribute to the orderly marketing of Scotch spearmint oil.

Native Spearmint Oil

The Committee recommended a Native spearmint oil salable quantity of 1,101,269 pounds and an allotment percentage of 43 percent for the 2022–2023 marketing year. These figures are, respectively, 162,872 pounds and 6 percentage points higher than the levels established for the 2021–2022 marketing year. The Committee utilized handlers' estimated trade demand of Native spearmint oil for the coming year, historical and current Native spearmint oil production, inventory statistics, and international market data obtained from consultants for the spearmint oil industry to arrive at these recommendations.

The Committee anticipates that 2021 Native spearmint oil production will total 985,797 pounds, down substantially from the previous year's production of 1,181,230 pounds. Committee records indicate that spearmint producing acres in the Far West have declined from a recent high of 9,013 acres in 2019 to an estimated 6,275 acres of Native spearmint production 2021.

However, sales of Native spearmint oil recovered from a 10-year low of 1,076,906 pounds in the 2019–2020 marketing year to 1,332,260 pounds in 2020–2021, the last full year of reported sales. The Committee estimates that trade demand for Native spearmint oil will be 1,200,000 pounds for the 2022–2023 marketing year, which is

somewhat less than the 5-year sales average of 1,301,490 pounds.

The Committee expects that 284,357 pounds of salable Native spearmint oil from prior years will be carried into the 2022–2023 marketing year. This amount is down from the 412,095 pounds of salable oil carried into the 2021–2022 marketing year, but still above the level that the Committee generally considers favorable.

Further, the Committee estimates that there will be 1,272,854 pounds of Native spearmint oil in the reserve pool at the beginning of the 2022–2023 marketing year. This figure is 73,062 pounds higher than the quantity of reserve pool oil held by producers on June 1, 2021, and well above the level that the Committee believes is optimal. Generally, reserve pool oil has been steadily increasing over the past several marketing years, climbing from 996,050 pounds of reserve oil since the start of the 2016–2017 marketing year.

The Committee expects end users of Native spearmint oil to continue to rely on Far West production as their primary source of high-quality Native spearmint oil. Overseas production of Native spearmint has declined in recent years. As a result, U.S. exports of Native spearmint oil have been steadily increasing since 2018. However, increased domestic production of Native spearmint from regions outside of the Far West production area has created additional domestic competition for market share. For instance, there were fewer than 2,000 acres of Native spearmint production in the U.S. Midwest region in 2016, which compares to over 10,000 acres of Native spearmint oil production in the Far West. However, 2021 estimates show that Far West acreage has declined to approximately 6,275 acres, compared to acreage increasing to around 5,000 acres in the Midwest. This situation has contributed to declining trade demand for Far West Native spearmint oil and led to downward pressure on producer prices.

The Committee chose to be cautiously optimistic in the establishment of its trade demand estimate for the 2022–2023 marketing year to ensure that the market would be adequately supplied. At the October 13, 2021, meeting, the Committee estimated the 2022–2023 marketing year Native spearmint oil trade demand to be 1,200,000 pounds. This figure is based on input provided by producers at nine production area meetings held in early October 2021, as well as estimates provided by handlers and other meeting participants. This figure represents an increase of 134,000 pounds from the previous year's revised trade demand estimate. The average estimated trade demand for Native spearmint oil derived from the area producer meetings was 1,173,333 pounds, whereas the handlers' estimates ranged from 950,000 to 1,300,000 pounds. The average of Native spearmint oil sales over the last three years was 1,301,490 pounds. The quantity marketed over the most recent full marketing year, 2020–2021, was 1,332,260 pounds.

The estimated June 1, 2022, carry-in of 284,357 pounds of Native spearmint oil, plus the recommended 2022–2023 marketing year salable quantity of 1,101,269 pounds, would result in an estimated total available supply of 1,385,626 pounds of Native spearmint oil during the 2022–2023 marketing year. With the corresponding estimated trade demand of 1,200,000 pounds, the Committee projects that 185,626 pounds of oil will be carried into the 2023–2024 marketing year. This would result in a year-over-year decrease of 98,731 pounds. The Committee estimates that there will be 1,272,854 pounds of Native spearmint oil held in the reserve pool at the beginning of the 2022–2023 marketing year. Should the industry experience an unexpected increase in trade demand, oil in the Native spearmint oil reserve pool could be released through an intra-seasonal increase to satisfy that demand.

The Committee recommended an allotment percentage of 43 percent for the 2022–2023 marketing year. During its October 13, 2021, meeting, the Committee calculated an initial allotment percentage of 35.8 percent by dividing the minimum required salable quantity to satisfy estimated trade demand (915,643 pounds) by the total allotment base (2,561,090 pounds). However, producers and handlers at the meeting expressed that the computed percentage of 35.8 percent may not adequately supply the potential 2022–2023 marketing year Native spearmint oil market demand or result in adequate carry-in for the subsequent marketing year. After deliberation, the Committee increased the recommended allotment percentage to 43 percent. The total estimated allotment base (2,561,090 pounds) for the 2022–2023 marketing year multiplied by the recommended salable allotment percentage (43 percent) yields 1,101,269 pounds, the recommended salable quantity for the year.

The 2022–2023 marketing year computational data for the Committee's recommendations is further outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2022: 284,357 pounds.* This figure is the difference between the 2021–2022 marketing year total available supply of 1,350,357 pounds and the revised 2021–2022 marketing year estimated trade demand of 1,066,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2022–2023 marketing year: 1,200,000 pounds.* This estimate was established by the Committee at the October 13, 2021 meeting.

(C) *Salable quantity of Native spearmint oil required from the 2022–2023 marketing year production: 915,643 pounds.* This figure is the difference between the 2022–2023 marketing year estimated trade demand (1,200,000 pounds) and the estimated carry-in on June 1, 2022 (284,357 pounds). This is the minimum amount of Native spearmint oil that the Committee believes would be required to meet the anticipated 2022–2023 marketing year trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2022–2023 marketing year: 2,561,090 pounds.* This figure represents a one-percent increase over the 2021–2022 total actual allotment base of 2,535,733 pounds as prescribed in § 985.53(d). The one-percent increase equals 25,357 pounds of oil. This estimate is revised each year on June 1, to adjust for the bona fide effort production provisions of § 985.53(e).

(E) *Computed Native spearmint oil allotment percentage for the 2022–2023 marketing year: 35.8 percent.* This percentage is calculated by dividing the required salable quantity (915,643 pounds) by the total estimated allotment base (2,561,090 pounds) for the 2022–2023 marketing year.

(F) *Recommended Native spearmint oil allotment percentage for the 2022–2023 marketing year: 43 percent.* This is the Committee's recommendation based on the computed allotment percentage (35.8 percent) and input from producers and handlers at the October 13, 2021 meeting. The recommended 43 percent allotment percentage is also based on the Committee's belief that the computed percentage (35.8 percent) may not adequately supply the potential market for Native spearmint oil in the 2022–2023 marketing year or allow for salable Native spearmint oil to be carried into the beginning of the 2023–2024 marketing year.

(G) *Recommended Native spearmint oil 2022–2023 marketing year salable quantity: 1,101,269 pounds.* This figure is the product of the recommended allotment percentage (43 percent) and the total estimated allotment base (2,561,090 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2022–2023 marketing year: 1,385,626 pounds.* This figure is the sum of the 2022–2023 recommended salable quantity (1,101,269 pounds) and the estimated carry-in on June 1, 2022 (284,357 pounds). This amount could be increased, as needed, through an intra-seasonal increase in the salable quantity and allotment percentage.

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 832,546 pounds and 37 percent, and 1,101,269 pounds and 43 percent, respectively, would match the available supply of each class of spearmint oil to the estimated demand of each, thus avoiding extreme fluctuations in inventories and prices. This proposed rule is similar to regulations issued in prior seasons.

The salable quantities in this proposed rule are not expected to cause a shortage of either class of spearmint oil. Any unanticipated or additional market demand for either class of spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity and corresponding allotment percentage. The Order contains a provision in § 985.51 for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions.

Under volume regulation, producers who produce more than their annual allotments during the marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment. In addition, on December 1 of each year, producers who have not transferred their excess spearmint oil to other producers must place their excess spearmint oil production into the reserve pool to be released in the future, in accordance with market needs and under the Committee's direction.

In conjunction with the issuance of this proposed rule, USDA has reviewed the Committee's marketing policy statement for the 2022–2023 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, meets the requirements of §§ 985.50 and 985.51.

The establishment of the proposed salable quantities and allotment percentages would allow for anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This proposal would also provide producers with information regarding the amount of spearmint oil that should be produced for the 2022–2023 season to meet anticipated market demand.

Initial Regulatory Flexibility Act

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

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

There are approximately 39 producers of Scotch spearmint oil and 93 producers of Native spearmint oil operating within the regulated production area. In addition, there are approximately 9 spearmint oil handlers (both Scotch and Native spearmint) subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $30,000,000, and small agricultural producers are defined as those having annual receipts of less than $1,000,000 (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil have ranged from $14.00 to $17.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2020 U.S. season average spearmint oil producer price per pound was $16.90. Spearmint oil utilization for the 2020–2021 marketing year, as reported by the Committee, was 488,484 pounds and 1,332,260 pounds for Scotch and Native spearmint oil, respectively, for a total of 1,820,744 pounds. Multiplying $16.90 per pound by 2020–2021 marketing year spearmint oil utilization of 1,820,744 pounds yields a crop value estimate of about $30.77 million.

Given the accounting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the $16.90 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 37 of the 39 Scotch spearmint oil producers and 92 of the 93 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Twenty percent of the 2020 producer price ($16.90) is $3.38 which results in a handler f.o.b. price per pound estimate of $20.28 ($16.90 + $3.38).

Multiplying this estimated handler f.o.b. price by the 2020–2021 marketing year total spearmint oil utilization of 1,820,744 pounds results in an estimated handler-level spearmint oil value of $36.92 million. Dividing this figure by the number of handlers (9) yields estimated average annual handler receipts of about $4.1 million, which is well below the SBA threshold for small agricultural service firms.

Furthermore, using confidential data on pounds handled by each handler, and the abovementioned estimated handler price per pound, the Committee reported that it is not likely that any of the nine handlers had 2020–2021 marketing year spearmint oil sales that exceeded the $30 million SBA threshold.

Therefore, in view of the foregoing, the majority of producers of spearmint oil may be classified as small entities, and all of the handlers of spearmint oil may be classified as small entities.

This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, which handlers may purchase from, or handle on behalf of, producers during the 2022–2023 marketing year. The Committee recommended this proposed action to help maintain stability in the spearmint oil market by matching supply to estimated demand, thereby avoiding extreme fluctuations in supplies and prices. Establishing quantities that may be purchased or handled during the marketing year through volume regulation allows producers to coordinate their spearmint oil production with the expected market demand. Authority for this proposal is provided in §§ 985.50, 985.51, and 985.52 of the Order.

The Committee estimates the total trade demand for the 2022–2023 marketing year for both classes of oil at 1,850,000 pounds. In addition, the Committee expects that the combined salable carry-in for both classes of spearmint oil will be 623,252 pounds. As such, the combined required salable quantity for the 2022–2023 marketing year is estimated to be 1,226,748 pounds

(1,850,000 pounds trade demand less 623,252 pounds carry-in). Under volume regulation, total sales of spearmint oil by producers for the 2022–2023 marketing year would be held to 2,557,067 pounds (the recommended salable quantity for both classes of spearmint oil of 1,933,815 pounds plus 623,252 of carry-in).

This total available supply of 2,557,067 pounds should be more than adequate to supply the 1,850,000 pounds of anticipated total trade demand for spearmint oil. In addition, as of May 31, 2021, the total reserve pool for both classes of spearmint oil stood at 1,272,153 pounds. That quantity is expected to remain relatively unchanged over the course of the 2021–2022 marketing year, with current Committee reserve pool estimates totaling 1,336,471 pounds. Should trade demand increase unexpectedly during the 2022–2023 marketing year, reserve pool spearmint oil could be released into the market to supply that increase in demand.

The recommended allotment percentages, upon which 2022–2023 marketing year annual allotments are based, are 37 percent for Scotch spearmint oil and 43 percent for Native spearmint oil. Without volume regulation, producers would not be held to these allotment levels, and could sell unrestricted quantities of spearmint oil.

The USDA econometric model used to evaluate the Far West spearmint oil market estimated that the season average producer price per pound (from both classes of spearmint oil) would decline about $2.70 per pound without volume regulation. The surplus situation for the spearmint oil market that would exist without volume regulation in the 2022–2023 marketing year also would likely dampen prospects for improved producer prices in future years because of the excessive buildup in stocks.

In addition, spearmint oil prices would likely fluctuate with greater amplitude in the absence of volume regulation. The coefficient of variation, or CV (a standard measure of variability), of Far West spearmint oil producer prices for the period 1980–2020 (the years in which the Order has been in effect), is 24 percent, compared to 49 percent for the 20-year period (1960–1979) immediately prior to the establishment of the Order. Since higher CV values correspond to greater variability, this is an indicator of the price stabilizing impact of the Order.

The use of volume regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume regulation is believed to have little or no effect on consumer prices of products containing spearmint oil and would not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations contained in this rule for both classes of spearmint oil. The Committee rejected the idea of not regulating volume for either class of spearmint oil because of the severe, price-depressing effects that would likely occur without volume regulation. The Committee also discussed and considered salable quantities and allotment percentages that were above and below the levels that were eventually recommended for both classes of spearmint oil. Ultimately, the action recommended by the Committee was to slightly reduce the allotment percentage and salable quantity for Scotch spearmint oil and to increase the salable quantity and allotment percentage for Native spearmint oil from the levels established for the 2021–2022 marketing year.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil; (4) the total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity.

Based on its review, the Committee believes that the salable quantities and allotment percentages recommended would achieve the objectives sought. The Committee also believes that, should there be no volume regulation in effect for the upcoming marketing year, the Far West spearmint oil industry would return to the pronounced cyclical price patterns that occurred prior to the promulgation of the Order. As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the Order's inception. The salable quantities and allotment percentages proposed herein are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2022–2023 and future marketing years.

Costs to producers and handlers, large and small, resulting from this proposal are expected to be offset by the benefits derived from a more stable market and increased returns. The benefits of this rule are expected to be equally available to all producers and handlers regardless of their size.

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

This proposed rule would establish the salable quantities and allotment percentages for Scotch spearmint oil and Native spearmint oil produced in the Far West during the 2022–2023 marketing year. Accordingly, this proposal would not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

The Committee's meeting was widely publicized throughout the spearmint oil industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 13, 2021, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this proposed action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance

guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Council and other available information, USDA has determined that this proposed rule is consistent with and will effectuate the purposes of the Act.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agriculture Marketing Services proposes to amend 7 CFR part 985 as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Add § 985.237 to read as follows:

§ 985.237 Salable quantities and allotment percentages—2022–2023 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2022, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 832,546 pounds and an allotment percentage of 37 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,101,269 pounds and an allotment percentage of 43 percent.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–03092 Filed 2–11–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 4284

[Docket No. RBS–21–BUSINESS–0039]

Rural Innovation Stronger Economy (RISE) Grant Program for FY 2022; Correction

AGENCY: Rural Business-Cooperative Service, Department of Agriculture (USDA).

ACTION: Notice of Solicitation of Applications; correction.

SUMMARY: The Rural Business-Cooperative Service (Agency), a Rural Development agency of the United States Department of Agriculture (USDA), published a Notice of Solicitation of Applications (NOSA) in the **Federal Register** on December 20, 2021 for the Rural Innovation Stronger Economy (RISE) grant program. Following publication of the NOSA, the Agency found that corrections due to error, omissions or need for clarity were necessary. This notice corrects those errors to clarify the time applications are due and to provide the correct regulation references.

DATES: Effective February 14, 2022.

FOR FURTHER INFORMATION CONTACT: For questions on this document contact Will Dodson, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 3326, Room 5160-South, Washington, DC 20250–3226, (202) 720–1400 or email: *SM.USDA-RD.RISE@usda.gov*.

SUPPLEMENTARY INFORMATION:

Corrections

In the **Federal Register** of December 20, 2021, in FR Doc. 2021–27447 (86 FR 71868), make the following corrections:

(1) In the first column of page 71869, under Overview, amend the language in **DATES** to read:

DATES: Electronic applications must be received and accepted by *https://www.grants.gov* no later than 11:59 p.m. Eastern Standard Time, April 19, 2022, or they will not be considered for funding.

(2) In the first column of page 71869, under Overview, amend the language in the first sentence of the first full paragraph to read:

Potential applicants may submit a concept proposal for review by the Agency to *SM.USDA-RD.RISE@usda.gov* no later than 11:59 p.m. Eastern Standard Time, February 18, 2022, in compliance with 7 CFR 4284.1115(a).

(3) In the third column of page 71869, under Eligible Applicants, amend the language in the first paragraph to read:

Applicants must meet all the following eligibility requirements. Applications that fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further. To be considered an eligible applicant, you must be a rural jobs accelerator partnership formed after December 20, 2018, and meet the eligibility criteria found in 7 CFR 4284.1112 to apply for this program. Individuals and individual entities are not an eligible applicant for the RISE program.

(4) In the first column of page 71871, under (d) Multiple Application Eligibility amend the first sentence to read:

Only one application can be submitted per applicant, who is defined as a lead applicant as found in 7 CFR 4284.1112(b).

(5) In the first column of page 71872, under 4. Submission Date and Time amend the first paragraph, first sentence to read:

Explanation of Deadline: Completed applications must be submitted electronically through *Grants.gov* no later than 11:59 p.m. Eastern Standard Time, April 19, 2022, to be eligible for grant funding.

(6) In the first column of page 71872, under 4. Submission Date and Time amend the second paragraph, first sentence to read:

Potential applicants may electronically submit a concept proposal for review by the Agency to: *SM.RISE-RD.RISE@usda.gov* no later than 11:59 p.m. Eastern Standard Time, February 18, 2022, in compliance with 7 CFR 4284.1115(a) and as stated in Section D, 2(b) of this Notice.

Karama Neal,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2022–03034 Filed 2–11–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 641

[Docket No. ETA–2022–0002]

RIN 1205–AC04

Senior Community Service Employment Program Conforming Changes to the Supporting Older Americans Act of 2020—Updated Guidance on Priority of Service, Durational Limits and State Plan Submissions

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; technical amendments.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this proposed rule amending the Senior Community Service Employment Program (SCSEP) regulations to conform with changes in the Supporting Older Americans Act of 2020 regarding individuals who have been incarcerated within the last 5 years. Consistent with the Act, this proposed rule adds this category of individuals to the priority groups; adds this category of individuals to the list of categories grantees may choose from to make eligible for increased periods of participation; includes people in this category within the definition of the term ''individuals with barriers to employment''; and requires that grantees identify and report on the relative distribution of these individuals in the State Plan.

DATES: Comments to this proposed rule must be submitted by March 16, 2022. All submissions must be made by the close of the comment period.

ADDRESSES: You may submit comments electronically identified by Regulatory Identification Number (RIN) 1205–AC04 by the following method:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions on the website for submitting comments.

Instructions: Include the agency's name and docket number ETA–2022–0002 in your comments. All comments received will become a matter of public record and will be posted without change to *https://www.regulations.gov.* Please do not include any personally identifiable or confidential business information that you do not want publicly disclosed.

FOR FURTHER INFORMATION CONTACT: Steven Rietzke, Chief, Division of National Programs, Tools and Technical Assistance, Office of Workforce Investment, at 202–693–3980. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Preamble Table of Contents

I. Background

The SCSEP, authorized by title V of the Older Americans Act of 1965 (OAA) and most recently reauthorized in 2020, is the only federally sponsored employment and training program targeted specifically to low-income, older individuals who want to enter or reenter the workforce. The program provides subsidized work experience training for low-income persons 55 years or older who are unemployed and have poor employment prospects. The dual goals of the program are to promote useful community service employment activities and to move SCSEP participants into unsubsidized employment so that they can achieve economic self-sufficiency.

In the Supporting Older Americans Act of 2020, Public Law 116–131 (the Act), Congress amended title V of the OAA to make certain changes to the SCSEP that would take effect 1 year from the March 25, 2020, enactment of the Act, *i.e.,* March 25, 2021. First, the Act makes an individual who ''has been incarcerated within the last 5 years or is under supervision following release from prison or jail within the last 5 years'' eligible for priority of service over those individuals who meet only the basic SCSEP eligibility criteria related to age, income, and employment. Public Law 116–131, sec. 401(a)(3)(B)(iii); 42 U.S.C. 3056p(b)(2)(H). Second, the Act adds individuals who ''have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years,'' to the list of categories for which the Department is required to authorize any SCSEP grantee to provide an increased period of participation if the relevant SCSEP grantee has made such a request. Public Law 116–131, sec. 401(a)(3)(A)(iii); 42 U.S.C. 3056p(a)(3)(B)(ii)(VI). Third, the Act revises the definition of ''individuals with barriers to employment'' to include ''eligible individuals who have been incarcerated or are under supervision following release from prison or jail.'' Public Law 116–131, sec. 401(a)(2); 42 U.S.C. 3056l(e)(1). Finally, the Act requires State Plans to identify and address the relative distribution of ''eligible individuals who have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.'' Public Law 116–131, sec. 401(a)(1)(C); 42 U.S.C. 3056a(a)(4)(C)(v).

In this proposed rule, the Department is proposing to incorporate the statutory changes described above into the SCSEP program regulations at 20 CFR part 641.

II. Consideration of Comments

The Department requests comment on all issues related to this proposed rule. As discussed more fully below, this proposed rule is the companion document to a direct final rule (DFR) published in the ''Rules'' section of this issue of the **Federal Register**. If the Department receives no significant adverse comment on the proposal or DFR, the Department will publish a **Federal Register** document confirming the effective date of the DFR and withdrawing this companion proposed rule. Such confirmation may include minor stylistic or technical changes to the DFR. For the purpose of judicial review, the Department views the date of confirmation of the effective date of the DFR as the date of promulgation. If, however, Department receives a significant adverse comment on the DFR or proposal, the Agency will publish a timely withdrawal of the DFR and proceed with this proposed rule, which addresses the same revisions to the SCSEP program.

III. Publication as a Direct Final Rule

As noted above, in addition to publishing this proposed rule, the Department is concurrently publishing a companion DFR in the **Federal Register**. In direct final rulemaking, an agency publishes a DFR in the **Federal Register**, with a statement that the rule will go into effect unless the agency receives significant adverse comment within a specified period. The agency may publish an identical concurrent proposed rule. If the agency receives no significant adverse comment in response to the DFR, the rule goes into effect. The Department plans to confirm the effective date of a DFR through a separate **Federal Register** document. If the Agency receives a significant adverse comment, the Agency will withdraw the DFR and treat such comment as a response to the proposed rule. An Agency typically uses direct final rulemaking when an agency anticipates that a rule will not be controversial.

The comment period for this proposed rule runs concurrently with

that of the DFR. The Department will treat comments received on the proposed rule as comments also regarding the companion DFR. Similarly, the Department will consider comments submitted to the companion DFR as comments to the proposed rule. Therefore, if the Department receives a significant adverse comment on either the DFR or this proposed rule, it will withdraw the companion DFR and proceed with the proposed rule. In the event the Department withdraws the DFR because of significant adverse comment, the Department will consider all timely comments received in response to the DFR when it continues with the proposed rule. After considering all comments to the DFR and the proposed rule, the Department will decide whether to publish a new final rule.

IV. Section-by-Section Discussion of Proposed Changes

The Department is proposing to make the following changes to implement the provisions of the Act. First, the Department is proposing to revise § 641.140 to define formerly incarcerated individuals as individuals who ''were incarcerated at any point within the last 5 years,'' or ''were under supervision at any point within the last 5 years, following release from prison or jail.'' The definition also specifies that the referenced 5-year period means the 5 years preceding the date of first determination of program eligibility, as described in § 641.505, for initial enrollment into the program. The current regulation does not include a definition of formerly incarcerated individuals, but the Department is proposing to define the term in this proposed rule based upon language provided in the Act, which makes an individual who ''has been incarcerated within the last 5 years or is under supervision following release from prison or jail within the last 5 years'' eligible for priority enrollment. Public Law 116–131, sec. 401(a)(3)(B)(iii); 42 U.S.C. 3056p(b)(2)(H). The definition included in this proposed rule also contains an explanation of the meaning of the 5-year period specified in the Act in order to clarify the meaning of the phrase ''within the last 5 years.'' The Act is silent about how to calculate the 5-year period. The Department has determined that connecting this date to the individual's possible participation in the SCSEP program aligns with the intent of the amendments and that using the ''date of first determination of program eligibility'' as described in § 641.505 provides a readily available date for grantees to reference when determining individuals' eligibility for the program.

The Department is also proposing to revise § 641.140 to include ''formerly incarcerated individuals'' in the definition of ''most-in-need.'' The existing definition of most-in-need is made up of all the categories of individuals for whom the grantees may request be made eligible for increased periods of participation (the list is at 42 U.S.C. 3056p(a)(3)(B)(ii)) and the categories of individuals who receive priority enrollment (the list in 42 U.S.C. 3056p(b)(2)). Under sec. 401(a)(3) of the Act, individuals eligible for increased periods of participation now include individuals who ''have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years,'' and the priority of service list now includes individuals who ''ha[ve] been incarcerated within the last 5 years or [are] under supervision following release from prison or jail within the last 5 years.'' Consistent with the Act's addition of ''formerly incarcerated individuals'' to these two lists, the Department is adding ''are formerly incarcerated as defined in this section'' to the § 641.140 definition of ''most-in-need.'' For purposes of clarity, the Department also has proposed restructuring the definition of ''most-in-need'' to present the list of most-in-need individuals as a numbered list.

Similarly, based on amendments made in the Act, the Department is proposing to revise § 641.325(b) to comply with the Act's requirement that the State Plan identify and address the relative distribution of ''eligible individuals who have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.'' Public Law 116–131, sec. 401(a)(1)(C); 42 U.S.C. 3056a(a)(4)(C)(v). Currently, § 641.325(b) lists information that must be included in the State Plan, including the relative distribution of certain individuals eligible for the program. Pursuant to the Act's requirement, see 42 U.S.C. 3056a(a)(4)(C)(v), the Department is proposing to revise § 641.325(b) to add ''[e]ligible individuals who are formerly incarcerated individuals as defined in § 641.140'' to the list of eligible individuals on whom the State Plan must provide information regarding relative distribution.

Additionally, the Department is proposing to revise §§ 641.420 and 641.520 to incorporate the Act's requirement that eligible individuals who ''[have] been incarcerated within the last 5 years or [are] under supervision following release from prison or jail within the last 5 years'' receive priority enrollment. Public Law 116–131, sec. 401(a)(3)(B)(iii); 42 U.S.C. 3056p(b)(2)(H). Paragraphs (a)(1) through (8) of § 641.520 list the characteristics that grantees and sub-recipients must consider when determining whether to provide eligible individuals with priority. Pursuant to the Act, see 42 U.S.C. 3056p(b)(2)(H), the Department is proposing to revise this list to include new paragraph (a)(9), which provides priority to individuals who are formerly incarcerated individuals, as defined in § 641.140. Accordingly, the Department is also proposing to make a minor technical change to § 641.420(e) to update the reference to § 641.520(a) to account for the addition of paragraph (a)(9) in § 641.520.

The Department is also proposing to revise §§ 641.570 and 641.710 to integrate the Act's requirement that the Secretary authorize a grantee to increase the period of participation for individuals who ''have been incarcerated within the last 5 years or are under supervision following release from prison or jail within the last 5 years.'' Public Law 116–131, sec. 401(a)(3)(A)(iii); 42 U.S.C. 3056p(a)(3)(B)(ii)(VI). Existing SCSEP regulations at § 641.570(b) list the categories of individuals for whom the Department is proposing to provide increased periods of participation if requested by the grantee. Pursuant to the Act, the Department is proposing to add new paragraph (b)(6), which states that individuals who are formerly incarcerated individuals, as defined in § 641.140 are, upon a grantee's request, eligible for an extended period of individual participation. Additionally, existing SCSEP regulations at § 641.710 define core performance measures, including ''service to the [m]ost-in-need'' (§ 641.710(g)). Consistent with the proposed change to the most-in-need definition at § 641.140, discussed above, the Department proposing adding a new paragraph at § 641.710(g)(14) to include individuals who ''[a]re formerly incarcerated individuals as defined in § 641.140'' to the list of individuals characterized as most-in-need. See Public Law 116–131, sec. 401(a)(3); 42 U.S.C. 3056p(a)(3)(B)(ii)(IV), (b)(2)(H).

Finally, sec. 401(a)(2) of the Act revises the definition of ''individuals with barriers to employment'' in the OAA to include ''eligible individuals who have been incarcerated or are under supervision following release from prison or jail.'' Public Law 116–131, sec. 401(a)(2); 42 U.S.C. 3056l(e)(1). This section of the OAA requires certain

national SCSEP grantees to give special consideration to selecting subgrantee organizations with demonstrated expertise in serving individuals with barriers to employment. Paragraph (d) of § 641.881(d) is the corresponding regulatory provision to implement this section of the OAA, stating that for purposes of this section, the term ''individuals with barriers to employment'' includes ''minority individuals, Indian individuals, individuals with greatest economic need, and most-in-need individuals.'' The Department notes that because the existing regulatory text in § 641.881(d) references ''most-in-need individuals,'' the regulatory text does not require change to align with the Act. The changes explained above that propose adding formerly incarcerated individuals to the most-in-need definition at § 641.140 and to the list of most-in-need individuals at § 641.710(g) have the effect of including formerly incarcerated individuals in the reference to most-in-need individuals in the existing definition of barriers to employment at § 641.881(d)(2).

V. Rulemaking Analyses and Notices

Regulatory Flexibility Analysis, Executive Order 13272, Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires the Department to evaluate the economic impact of this rule with regard to small entities. The RFA defines small entities to include small businesses, small organizations including not-for-profit organizations, and small governmental jurisdictions. The Department must determine whether the proposed rule imposes a significant economic impact on a substantial number of such small entities.

There are 77 SCSEP grantees; 50 of these are States and are not small entities as defined by the RFA. Six grantees are governmental jurisdictions other than States (four grantees are territories, such as Guam; one grantee is Washington, DC; and another grantee is Puerto Rico). Governmental jurisdictions must have a population of less than 50,000 to qualify as a small entity for RFA purposes and the population of these 6 SCSEP grantees each exceeds 50,000. The remaining 21 grantees are non-profit organizations, which includes some large, national non-profit organizations.

The Department has determined that this proposed rule will impose a negligible additional burden on small entities. SCSEP grantees already review their policies on a regular basis to align with guidance and the activities related to this proposed rule will only add one more item to consider during these activities. SCSEP grantees also already determine eligibility on a regular basis and the additional population category is only an additional factor to consider. Whatever negligible costs that the new regulation requires of SCSEP grantees is covered by SCSEP administrative costs and programmatic activity costs funding.

The Department certifies that this proposed rule does not impose a significant economic impact on a substantial number of small entities.

Executive Orders 12866 and 13563

Under Executive Order (E.O.) 12866, Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive order and review by OMB. 58 FR 51735 (Oct. 4, 1993).

Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* OMB has determined that this rulemaking is not a ''significant regulatory action'' under sec. 3(f) of E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

OMB waived review of this rulemaking because it is not a significant regulatory action.

Paperwork Reduction Act

This proposed rule is not subject to the requirements of the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3501 *et seq.*) because it does not contain a collection of information as defined in 44 U.S.C. 3502(3). The Department previously submitted to OMB revision requests to the three information collections affected by the statute in this proposed rule, which were subsequently approved by OMB. See Information Collection Request (ICR) Reference Numbers 202112–1205–003 (OMB Control Number 1205–0521), 202108–1205–007 (OMB Control Number 1205–0040), and 202103–1205–001 (OMB Control Number 1205–0448).

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, this proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million.

Executive Order 13132

The Department has reviewed this proposed rule in accordance with E.O. 13132 regarding federalism and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the [N]ational [G]overnment and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule updates, defines, and implements eligibility requirements, waiver factors, and performance measures for the SCSEP. While States are SCSEP grantees, this proposed rule merely makes minor changes to currently ongoing data collection processes. Requiring State grantees to implement these changes does not constitute a ''substantial direct effect'' on the States, nor will it alter the relationship or responsibilities between the Federal and State governments.

Privacy Act

The Privacy Act of 1974, 5 U.S.C. 552a, provides safeguards to individuals concerning their personal information that the Government collects. The Privacy Act requires certain actions by an agency that collects information on individuals when that information contains personally identifiable

information, such as Social Security numbers (SSNs) or names. Because SCSEP participant records are maintained by SSN, the Privacy Act applies here.

A key concern is for the protection of participant SSNs. Grantees must collect the SSN in order to pay participants properly for their community service work in host agencies. When grantees send participant files to the Department for aggregation, the transmittal is protected by secure encryption. When participant files are retrieved within the internet-based SCSEP data management system, only the last four digits of the SSN are displayed. Any information that is shared or made public is aggregated by grantee and does not reveal personal information on specific individuals.

The Department works diligently to ensure the highest level of security whenever personally identifiable information is stored or transmitted. All contractors that have access to individually identifying information are required to provide assurances that they will respect and protect the confidentiality of the data. The Department's Office the Chief Information Officer has been an active participant in the development and approval of data security measures.

In addition to the above, the Department provides a Privacy Act Statement to grantees for distribution to all participants. The Department advised grantees of the requirement in Training and Employment Guidance Letter No. 39–11 (June 28, 2012). Participants receive this information when they meet with a caseworker or intake counselor. When the Department monitors the programs, implementation of this term is included in the reviews.

Amended Regulatory Text

List of Subjects in 20 CFR Part 641

Administrative practice and procedure, Aged, Employment, Equal employment opportunity, Government contracts, Grant programs—labor, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Department proposes to amend 20 CFR part 641 as follows:

PART 641—PROVISIONS GOVERNING THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

■ 1. The authority citation for part 641 is revised to read as follows:

Authority: 42 U.S.C. 3056–3056p.

Subpart A—Purpose and Definitions

■ 2. Amend § 641.140 by adding the definition of *Formerly incarcerated individuals* in alphabetical order and revising the definition of *Most-in-need* to read as follows:

§ 641.140 What definitions apply to this part?

* * * * *

Formerly incarcerated individuals means:

(1) Individuals who were incarcerated at any point within the last 5 years; or

(2) Individuals who were under supervision at any point within the last 5 years, following release from prison or jail.

(3) The 5-year period specified in this definition refers to the 5 years preceding the date of first determination of program eligibility, as described in § 641.505, for initial enrollment into the program.

* * * * *

Most-in-need means participants with one or more of the following characteristics (OAA sec. 513(b)(1)(F)):

(1) Have a severe disability;

(2) Are frail;

(3) Are age 75 or older;

(4) Are age-eligible but not receiving benefits under title II of the Social Security Act;

(5) Reside in an area with persistent unemployment and have severely limited employment prospects;

(6) Have limited English proficiency;

(7) Have low literacy skills;

(8) Have a disability;

(9) Reside in a rural area;

(10) Are veterans;

(11) Have low employment prospects;

(12) Have failed to find employment after using services provided under title I of the Workforce Innovation and Opportunity Act;

(13) Are homeless or at risk for homelessness; or

(14) Are ''formerly incarcerated'' as defined in this section.

* * * * *

Subpart C—The State Plan

■ 3. Amend § 641.325 by revising paragraphs (b)(4) and (5) and adding paragraph (b)(6) to read as follows:

§ 641.325 What information must be provided in the State Plan?

* * * * *

(b) * * *

(4) Eligible individuals who are limited English proficient;

(5) Eligible individuals who have the greatest social need; and

(6) Eligible individuals who are formerly incarcerated individuals as defined in § 641.140;

* * * * *

Subpart D—Grant Application and Responsibility Review Requirements for State and National SCSEP Grants

■ 4. Amend § 641.420 by revising paragraph (e) to read as follows:

§ 641.420 What are the eligibility criteria that each applicant must meet?

* * * * *

(e) An ability to move participants with multiple barriers to employment, including individuals described in § 641.570(b) or § 641.520(a)(2) through (9), into unsubsidized employment;

* * * * *

Subpart E—Services to Participants

■ 5. Amend § 641.520 by revising the section heading and paragraphs (a)(7) and (8) and adding paragraph (a)(9) to read as follows:

§ 641.520 Are there any priorities that grantees and sub-recipients must use in selecting eligible individuals for participation in the Senior Community Service Employment Program?

(a) * * *

(7) Have failed to find employment after using services provided through the one-stop delivery system;

(8) Are homeless or are at risk for homelessness; or

(9) Are formerly incarcerated individuals as defined in § 641.140. (OAA sec. 518(b))

* * * * *

■ 6. Amend § 641.570 by revising paragraphs (b)(4) and (5) and adding paragraph (b)(6) to read as follows:

§ 641.570 Is there a time limit for participation in the program?

* * * * *

(b) * * *

(4) Live in an area with persistent unemployment and are individuals with severely limited employment prospects;

(5) Have limited English proficiency or low literacy skills; or

(6) Are formerly incarcerated individuals as defined in § 641.140.

* * * * *

Subpart G—Performance Accountability

■ 7. Amend § 641.710 by revising paragraphs (g)(12) and (13) and adding paragraph (g)(14) to read as follows:

§ 641.710 How are the performance measures defined?

* * * * *

(g) * * *

(12) Have failed to find employment after utilizing services provided under title I of the Workforce Innovation and Opportunity Act;

(13) Are homeless or at risk for homelessness; or

(14) Are formerly incarcerated individuals as defined in § 641.140.

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–02681 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2022–C–0098]

Motif FoodWorks, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by Motif FoodWorks, Inc., proposing that the color additive regulations be amended to provide for the safe use of myoglobin as a color additive in meat and poultry analogue products.

DATES: The color additive petition was filed on December 13, 2021.

ADDRESSES: For access to the docket to read background documents or 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.

FOR FURTHER INFORMATION CONTACT: Ellen Anderson, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1309.

SUPPLEMENTARY INFORMATION: Under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e(d)(1)), we are giving notice that we have filed a color additive petition (CAP 2C0322), submitted by Motif FoodWorks, Inc., 27 Drydock Ave., 2nd Floor, Boston, MA 02210. The petition proposes to amend the color additive regulations in part 73 (21 CFR part 73), ''Listing of Color Additives Exempt from Certification,'' to provide for the safe use of myoglobin as a color additive in meat and poultry analogue products.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because the substance occurs naturally in the environment, and the action does not alter significantly the concentration or distribution of the substance, its metabolites, or degradation products in the environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist that would warrant at least an environmental assessment (see 21 CFR 25.21). If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: February 7, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–03109 Filed 2–11–22; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2020–0684, FRL–9402–01–R10]

Air Plan Approval; OR; Air Contaminant Discharge Permit Fee Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Oregon State Implementation Plan (SIP) submitted on November 5, 2020. The revision establishes new fees to be paid by stationary sources of air contaminants submitting notices of intent to construct. The revision also adds a new basic air contaminant discharge permit category to allow certain minor sources, that would otherwise be required to obtain a general, simple, or standard permit, the option to qualify for a basic permit.

DATES: Comments must be received on or before March 16, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2020–0684, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kristin Hall, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–6357 or *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used, it is intended to refer to the EPA.

Table of Contents

I. Background

A. State Implementation Plan

Each state has a State Implementation Plan (SIP) containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) established by the EPA for the criteria pollutants (carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, sulfur dioxide). Section 110 of the Clean Air Act spells out the requirements for each SIP, including but not limited to air pollution control regulations, emissions inventories, ambient air monitoring, enforcement mechanisms, and authority to revise the SIP as needed.

Revisions to the SIP are adopted by the state and submitted to the EPA for review. The EPA approves and codifies

such SIP revisions as part of the Code of Federal Regulations (CFR), making them federally enforceable. The Oregon Department of Environmental Quality, as the Governor's designee, routinely revises the SIP and submits the changes to the EPA for approval and codification in 40 CFR part 52, subpart MM.

B. Air Contaminant Discharge Permits

The Oregon air contaminant discharge permit (ACDP) program is a set of air pollution control regulations in the Oregon SIP. The ACDP program serves two SIP-related functions.[1] First, it governs operation of minor sources that are not subject to the major stationary source Title V operating permit program. Second, it serves as the administrative mechanism used to implement the notice of construction and pre-construction permit program, also known as the ''new source review'' program.

There are six types of permits in the Oregon ACDP program: Construction, General, Short-Term Activity, Basic, Simple, and Standard. Sources seeking permits must pay associated fees based on specific categories and activities codified in Oregon Administrative Rules (OAR) Chapter 340, Division 216 and approved into the Oregon SIP. Oregon has adjusted these permit fees over time to help ensure there are adequate resources to implement the ACDP program.

C. Source Notification Requirements

Oregon requires stationary sources to submit notices of intent to construct for certain types of activities. These notification requirements are codified in OAR Chapter 340, Division 210 and are approved into the Oregon SIP. Type 2 notices of intent to construct generally cover existing sources with issued permits that are seeking certain minor changes to those permits. Historically, Oregon has not assessed fees to process these Type 2 notices of intent to construct.

[1] We note that the ACDP program serves other functions, outside of the federally approved Oregon SIP. For example, the ACDP program is the mechanism used to implement the risk-based toxics permitting program known as Cleaner Air Oregon. Because the ACDP program serves other functions, the EPA has approved the ACDP program into the Oregon SIP only to the extent it applies to (1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and (2) any additional pollutants that are required to be regulated under part C of title I of the Clean Air Act (prevention of significant deterioration of air quality), but only for purposes of meeting or avoiding the requirements of part C of title I of the Clean Air Act.

II. Evaluation of Submission

On November 5, 2020, Oregon submitted a SIP revision addressing stationary source permitting and associated fees. Oregon subsequently revised the scope of the SIP revision submitted for EPA approval in a letter dated December 22, 2021.[2] The SIP revision makes two substantive changes. First, the SIP revision adds new fees to process Type 2 notices of intent to construct. See OAR 340–210–0230 and 0240. Second, the SIP revision adds a new Basic ACDP option, available to a qualifying minor source if that source meets certain criteria, including taking an enforceable limit on hours of operation and/or production. See OAR 340–216–0010 Table 1, Part A, number 8. This second change allows a source to obtain a Basic ACDP rather than a General, Simple, or Standard ACDP, provided the source: (1) Is not a federal major source under Title I or Title V of the Clean Air Act, (2) is not subject to other source-specific SIP permitting requirements, (3) requests an enforceable limit on actual, uncontrolled emissions, and (4) control devices are not required to maintain the enforceable limit.[3] The enforceable limit is established in the Basic ACDP and includes associated monitoring, recordkeeping, and reporting requirements and any other elements needed to make the limit practically enforceable.

We have reviewed the submitted changes to Division 210 for continued compliance with SIP-related permit fee requirements in Clean Air Act section 110(a)(2)(L). We propose to find that the changes are designed to increase major stationary source fees paid to the permitting authority and are therefore consistent with Clean Air Act section 110(a)(2)(L). See also our most recent approval of the Oregon SIP as meeting the requirements of Clean Air Act section 110(a)(2)(L) (84 FR 26347, June 6, 2019).

We have reviewed the submitted changes to Division 216 for continued compliance with the Clean Air Act, in particular, the SIP-related minor new source review program requirements in Clean Air Act section 110(a)(2)(C) and the EPA's implementing regulations at 40 CFR 51.160 through 51.164. The EPA previously approved Oregon's minor new source review program as meeting these statutory and regulatory requirements on October 11, 2017 (82 FR 47122). We propose to find that the submitted changes to Division 216 continue to satisfy the statutory and regulatory requirements. We note that qualifying minor sources are required to apply for and obtain a Basic ACDP permit with enforceable limits on hours of operation and/or production, a process that includes: SIP-approved legal procedures that enable Oregon to determine, among other things, if construction of the minor source will violate applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS; public availability of information; and administrative processes. We have also reviewed the submitted changes as they relate to the EPA's guidance on federally enforceable state operating permit programs and propose to find that Oregon's ACDP program continues to comply with this guidance (54 FR 27274, June 28, 1989). See the EPA's action approving the program on January 22, 2003 (68 FR 2891).

[2] Oregon clarified that OAR 340–216–8020, which includes the specific fee amounts to be paid by sources, is not submitted for SIP approval. The letter has been placed in the docket for this action.

[3] Functionally, this option allows certain minor sources otherwise required to obtain a General, Simple, or Standard ACDP operating permit by virtue of OAR 340–216–8010 Table 1, Part B, number 85 to obtain a Basic ACDP. See Footnote 4 to OAR 340–216–8010 Table 1, Part B, number 85.

III. Proposed Action

The EPA is proposing to approve, and incorporate by reference, revisions to the Oregon SIP submitted for purposes of SIP-related permitting, as discussed in section II. of this preamble. Upon final approval, the Oregon SIP will include the following regulations, State effective September 21, 2020:

- OAR 340–210–0230, Notice of Construction and Approval of Plans: Notice to Construct;
- OAR 340–210–0240, Notice of Construction and Approval of Plans: Construction Approval; and
- OAR 340–216–8010, Table 1—Activities and Sources.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described in section III. of this preamble. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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 the requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action would not apply on any Indian reservation land or in any other area in Oregon where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 7, 2022.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2022–02983 Filed 2–11–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 220203–0038]

RIN 0648–BK43

Fisheries Off West Coast States; West Coast Salmon Fisheries; Federal Salmon Regulations for Overfished Species Rebuilding Plans

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes revisions to regulations that implement the Pacific Fishery Management Council's (Council) Pacific Coast Salmon Fishery Management Plan (FMP). This proposed action would remove a rebuilding plan for Sacramento River fall-run Chinook salmon (SRFC) from regulation, as this stock has been rebuilt and is no longer required to be managed under a rebuilding plan, and would update language to reflect the 2013 merger of NMFS' Northwest Region (NWR) and Southwest Region (SWR), which created NMFS' West Coast Region (WCR).

DATES: Comments on this proposed rule must be received on or before March 1, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0002 by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2022–0002 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. 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. 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.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Shannon Penna, Fishery Management Specialist, at 562–676–2148, or *Shannon.Penna@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 660, subpart H implement the management of West Coast salmon fisheries under the FMP in the exclusive economic zone (3 to 200 nautical miles (5.6–370.4 kilometers)) off the coasts of the states of Washington, Oregon, and California.

In 2018, NMFS determined that SRFC was overfished under the Magnuson-Stevens Fishery and Conservation Management Act (MSA). The Council developed a rebuilding plan for SRFC, which it transmitted to NMFS on August 14, 2019. The Council recommended as the rebuilding plan the existing control rule for SRFC, which was adopted as part of FMP Amendment 16 and described in codified regulation at 50 CFR 660.410(c) (76 FR 81851, December 29, 2011). The Council determined that the existing control rule met the MSA requirement to rebuild the stock as quickly as possible, taking into account the status and biology of any overfished stock and the needs of fishing communities (50 CFR 600.310(j)(3)(i)). NMFS approved and implemented the Council's recommended rebuilding plan for SRFC through a final rule (85 FR 75920; November 27, 2020).

In 2021, NMFS determined that SRFC met the criteria in the FMP for being rebuilt and notified the Council (Letter from Barry A. Thom, NMFS West Coast

Regional Administrator, to Charles A. Tracy, Pacific Fishery Management Council Executive Director, dated July 23, 2021). As the stock is rebuilt, it is no longer required to be managed under a rebuilding plan and the SRFC rebuilding plan should be removed from regulation to avoid confusion regarding the stock's status. Additionally, removing the SRFC rebuilding plan from regulation will avoid confusion should NMFS make a future determination that the SRFC stock is overfished again, in which case the MSA requires the Council to prepare and implement a rebuilding plan within two years of that determination (50 CFR 600.310(j)(2)(ii)). Leaving the current rebuilding plan in regulation could be confused as being the default rebuilding plan for SRFC, which was not the intention of the Council nor of NMFS. Therefore, to avoid confusion, it is necessary to remove the existing SRFC rebuilding plan from regulation. Because the rebuilding plan adopted the existing harvest control rule for SRFC that was implemented through notice and comment rulemaking in 2011 (76 FR 81851, December 29, 2011), removing the rebuilding plan from regulation will not change the management of salmon fisheries that affect SRFC. NMFS has determined that a 15-day comment period for this proposed rule is appropriate to allow adequate time for public comment while also allowing for the final rule to be in effect prior to the annual preseason management process for the 2022 ocean salmon fisheries, thereby avoiding confusion about the status of SRFC prior to the fishing season.

In 2013, NMFS implemented a realignment that merged the NWR and SWR to create the WCR. This change was made in order to more effectively manage resources, decision-making, and policy from a holistic West Coast perspective. NMFS proposes to revise the regulations at 50 CFR 660, subpart H, to reflect the 2013 merger of NMFS' NWR and SWR by replacing mentions of NWR and SWR with WCR, and by replacing mention of the Northwest and Southwest Regional Administrators with West Coast Regional Administrator.

Classification

NMFS is issuing this proposed rule pursuant to section 305(d) of the MSA. This proposed rule implements technical and minor administrative changes to the regulations governing the salmon fishery.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Using the Socioeconomic Assessment of the 2020 Ocean Salmon Fisheries (Chapter IV) of the *Review of 2020 Ocean Salmon Fisheries Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management Plan,* the most recent year of complete fishing data, 2020, had 647 distinct commercial vessels land fish caught in Oregon and California. These vessels had an average state-level ex-vessel revenue per vessel of $39,127; no vessel met the threshold ($11 million in annual gross receipts) for being a large entity. Because all directly regulated entities are small, these regulation revisions are not expected to place small entities at a significant disadvantage to large entities. The proposed rule would not change harvest policy; thus, by definition, there would be no direct or indirect economic impact or reduction in profit for the directly regulated entities. Therefore, this proposed action, if implemented, is not expected to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Recording and reporting requirements.

Dated: February 4, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.402, revise the definition of ''Regional Administrator'' to read as follows:

§ 660.402 Definitions.

* * * * *

Regional Administrator means the Administrator, West Coast Region, NMFS.

* * * * *

660.408 [AMENDED]

■ 3. In § 660.408, paragraph (m), footnote 2, remove ''Director, Southwest'' and add, in its place ''West Coast''

■ 4. In § 660.411, revise paragraph (c) to read as follows:

§ 660.411 Notification and publication procedures.

* * * * *

(c) *Availability of data.* The Regional Administrator will compile in aggregate form all data and other information relevant to the action being taken and will make them available for public review upon request. Contact information will be published annually in the **Federal Register**, posted on the NMFS website, and announced on the telephone hotline.

■ 5. In § 660.413;

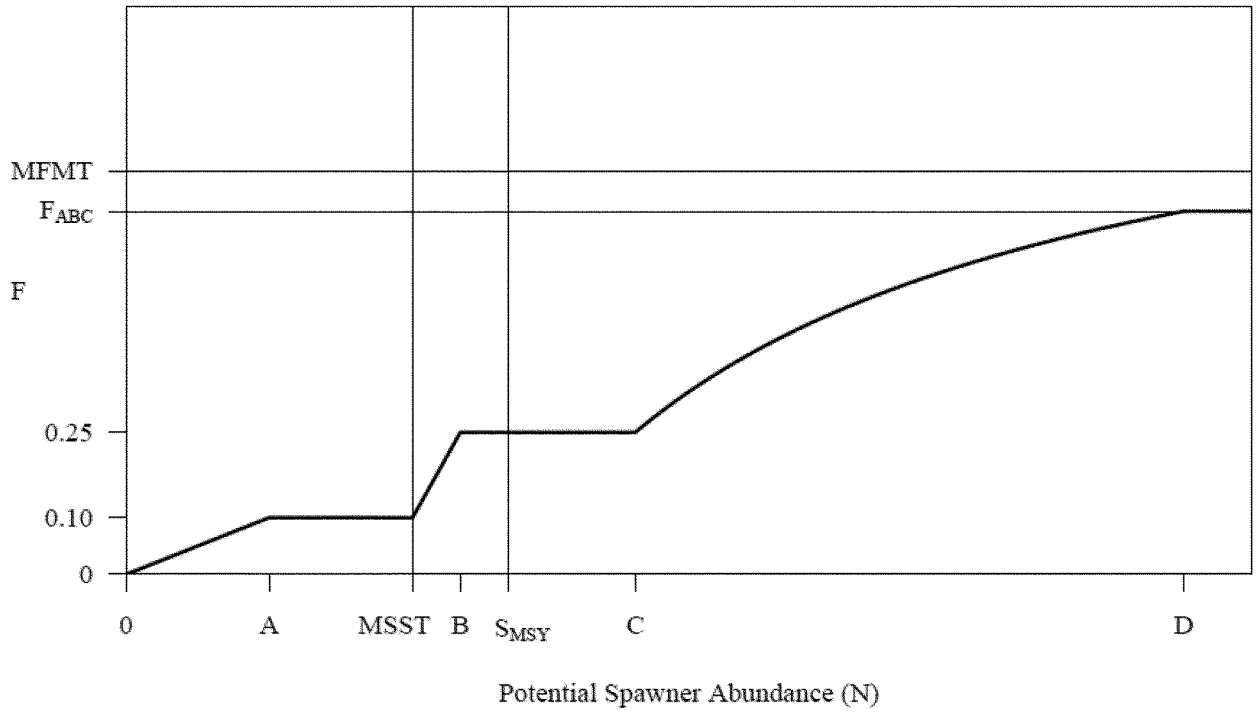
■ a. Remove and reserve paragraph (b); and

■ b. Revise Figure 1 to § 660.413.

§ 660.413 Overfished species rebuilding plans.

* * * * *

Figure 1 to § 660.413 – Harvest Control Rule for Klamath River Fall-Run Chinook Salmon.



* * * * *

[FR Doc. 2022–02794 Filed 2–11–22; 8:45 am]
BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 30
Monday, February 14, 2022

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

USDA Equity Commission

AGENCY: Agriculture (USDA).

ACTION: Notice of virtual meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the United States Department of Agriculture (USDA) and the Federal Advisory Committee Act (FACA), that the inaugural meeting of the USDA Equity Commission (EC or Commission) and Subcommittee for Agriculture will convene to begin its work reviewing USDA programs, services and policies for the purpose of making recommendations for how the Department can improve access and advance equity.

DATES: The EC meeting will be open to the public and held virtually via Zoom on Monday, February 28, 2022, from 11:30 a.m. to 3:30 p.m. EST.

ADDRESSES: The webinar for the meeting and public comment period can be accessed by internet and/or phone. Access information will be provided to registered individuals via email. Detailed information can be found at: *https://www.usda.gov/equity-commission.*

FOR FURTHER INFORMATION CONTACT: Cecilia Hernandez, Designated Federal Officer, USDA Equity Commission, Office of the Secretary, 1400 Independence Avenue SW, Room 6006–S, Washington, DC 20250–0235; Phone: (202) 913–5907; Email: *Equitycommission@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 20, 2021, President Biden signed an Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and committed to creating the USDA Equity Commission as part of his rural agenda and commitment to closing the racial wealth gap and addressing longstanding inequities in agriculture. Section 1006 of the American Rescue Plan directed USDA to create the Equity Commission and provided funds sufficient to ensure the Commission is well staffed and positioned to deliver on its charge.

The USDA Equity Commission will advise the Secretary of Agriculture and provide USDA with an analysis of how its programs, policies, systems, structures, and practices contribute to barriers to inclusion or access, systemic discrimination, or exacerbate or perpetuate racial, economic, health and social disparities and recommendations for action. A Subcommittee on Agriculture is being formed concurrently and will report back to the Equity Commission and provide recommendations on issues of concern related to agriculture. Subsequent subcommittees will focus on other policy areas, such as rural community and economic development. The Equity Commission will deliver an interim report and provide actionable recommendations by September 2022. A final report will be completed by the summer of 2023.

Meeting Agenda: Agenda items may include, but are not limited to, welcome and introductions; administrative matters; overview of governance including roles and responsibilities; the purpose, scope, and priorities of the Equity Commission; and the overview and charge of the Agriculture Subcommittee. Please check the USDA Equity Commission website for an agenda 24–48 hours prior to February 28th at *https://www.usda.gov/equity-commission.*

Register for the Meeting: The public is asked to pre-register for the meeting by visiting *https://www.usda.gov/equity-commission.* Your pre-registration must state: Your name; organization or interest represented; if you are planning to give oral comments; and if you require special accommodations. USDA will also accept day-of registrations.

Oral Comments: The Commission is providing the public an opportunity to provide oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, Monday, February 21, 2022, and may only register for one speaking slot. Participants who wish to make oral comments must also be available to attend a tech-check the day before the meeting. Instructions for registering and participating in the meeting can be found on *https://www.usda.gov/equity-commission.*

Written Comments: Written public comments for consideration at the meeting will be accepted on or before 11:59 p.m. Monday, February 21, 2022, EST. Comments submitted after this date will be provided to USDA, but the Commission may not have adequate time to consider those comments prior to the meeting. The USDA Equity Commission strongly prefers comments be submitted electronically. However, written comments may also be submitted (*i.e.,* postmarked) via mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline. Written comments will be accepted up to 15 days after the meeting.

Availability of Materials for the Meeting: All written public comments received by February 21, 2022, will be compiled into a file and available for member review and be included in the meeting minutes. Duplicate comments from multiple individuals will appear as one comment, with a notation that multiple copies of the comment were received. Please visit *https://www.usda.gov/equity-commissiontoviewtheagendaand/or* minutes from this meeting.

Meeting Accommodations: USDA is committed to making its electronic and information technologies accessible to individuals with disabilities by meeting or exceeding the requirements of Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If you need reasonable accommodations, please make requests in advance for reasonable accommodations through the meeting registration link on *https://www.usda.gov/equity-commission.* Determinations for reasonable accommodations will be made on a case-by-case basis.

Dated: February 9, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–03074 Filed 2–11–22; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 9, 2022.

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 March 16, 2022 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.

Foreign Agricultural Service

Title: USDA Trade Missions and Trade Show Program.

OMB Control Number: 0551–NEW.

Summary of Collection: The primary purpose of the USDA Trade Missions and Trade Shows is to evaluate the effectiveness and value added of USDA support to USDA-endorsed Trade Shows, USDA Agribusiness Trade Missions, and USDA Virtual Trade Events. Participants desiring to participate in the USDA Trade Missions and Trade Shows Program will submit an application to determine eligibility of the applicants to take part in the event. This program evaluation information will be reported as USDA Key Performance Indicator ''Value of agricultural exports resulting from participation in USDA endorsed foreign agricultural trade shows and trade missions''. Authority for these programs falls under: (a) 7 U.S.C. 1761 ''Foreign Market Development'', (b) 7 U.S.C. 5693 ''Export Promotion—Foreign Agricultural Service—Functions of the Foreign Agricultural Service,'' and; (c) 7 U.S.C. 1765b ''Functions of the U.S. Agricultural Trade Offices''.

Need and Use of the Information: USDA Foreign Agricultural Service Staff will utilize the information in assessing the performance of USDA-endorsed Trade Shows, USDA Agribusiness Trade Missions or USDA Virtual Trade Events activities that utilize Market Access Program, Emerging Market Program and Country Strategy Statement Funds. The information will be used to measure the outcomes of the activities, participant satisfaction with the activities, and how activities can be improved.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Farms.

Number of Respondents: 2,300.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 444.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–03083 Filed 2–11–22; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Virginia Resource Advisory Committee; Meeting

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of virtual meeting.

SUMMARY: The Virginia Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as to make recommendations on recreation fee proposals for sites on the George Washington and Jefferson National Forests within Alleghany, Bath, Page, and Smyth Counties, Virginia, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *www.fs.usda.gov/main/gwj/workingtogether/advisorycommittees.*

DATES: The meeting will be held on March 15, 2022, 9:00 a.m. to 12:00 p.m., Eastern Standard Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or can be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Beth LeMaster, Designated Federal Officer (DFO), by phone at 540–265–5118 or email at *elizabeth.lemaster@usda.gov* or Rebecca Robbins, RAC Coordinator at 540–492–1901 or email at *rebecca.robbins@usda.gov*.

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Hear from Title II project proponents and discuss Title II project proposals;

2. Make funding recommendations on Title II projects; and

3. Approve meeting minutes.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an

oral statement should make a request in writing by March 1, 2022, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Rebecca Robbins, RAC Coordinator, George Washington and Jefferson National Forest Supervisor's Office, 5162 Valleypointe Parkway, Roanoke, Virginia 24019; or by email to *rebecca.robbins@usda.gov.*

Meeting Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodation. For access to proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case-by-case basis.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the RAC. To help ensure that recommendations of the RAC have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, political beliefs, income derived from a public assistance program, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Dated: February 8, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–03051 Filed 2–11–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Huron-Manistee Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of virtual meeting.

SUMMARY: The Huron-Manistee Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as to make recommendations on recreation fee proposals for sites on the Huron-Manistee National Forests within Occoda and Wexford Counties, consistent with the Federal Lands Recreation Enhancement Act. General information can be found at the following website: *https://www.fs.usda.gov/working-with-us/secure-rural-schools.*

DATES: The meeting will be held on March 8, 2022, 2:00 p.m.–4:00 p.m., Eastern Standard Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held with virtual attendence only. Members of the public may participate in the meeting by calling 1–202–650–0123 and use access code 942008083#.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Greyling Brandt, Designated Federal Officer (DFO), by phone at 989–826–3252 or email at *greyling.brandt@usda.gov.*

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Approve draft RAC 2022 Operating Guidelines;
2. Recommend changes or approve Secure Rural Schools White Paper;
3. Review processes for recommending and considering Title II projects;
4. Public comments; and
5. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by March 1, 2022, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Greyling Brandt, 107 McKinley Road, Mio, Michigan 48647; or by email to *greyling.brandt@usda.gov.*

Meeting Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodation. For access to proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the RAC. To help ensure that recommendations of the RAC have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, political beliefs, income derived from a public assistance program, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Dated: February 8, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–03050 Filed 2–11–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–943, C–570–944]

Oil Country Tubular Goods From the People's Republic of China: Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews

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

SUMMARY: The Department of Commerce (Commerce) is simultaneously initiating and issuing the preliminary results of the changed circumstances reviews of the antidumping and countervailing duty orders on oil country tubular goods (OCTG) from the People's Republic of China (China) to determine whether HLDS (B) Steel Sdn Bhd (HLDS (B)) and HLD Clark Steel Pipe Co., Inc. (HLD Clark) (collectively, HLD companies) are eligible to participate in a certification process because the HLD companies have preliminarily demonstrated that they can identify OCTG that they produced in either Brunei or the Philippines using non-Chinese hot-rolled steel. We invite interested parties to comment on these preliminary results.

DATES: Applicable February 14, 2022.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 2021, Commerce found that imports of welded OCTG completed in Brunei or the Philippines using inputs manufactured in China are circumventing the antidumping and countervailing duty orders on OCTG from China.[1] In the *Final Determinations*, Commerce found that welded OCTG ''assembled or completed in Brunei or the Philippines using non-Chinese inputs is not subject to these circumvention inquiries,'' but because the HLD companies were ''unable to track welded OCTG to the country of origin of inputs used in the production of welded OCTG,'' Commerce decided not to ''implement a certification process for welded OCTG already suspended,'' and required ''cash deposits on all entries of welded OCTG produced in either Brunei or the Philippines.'' [2] However, Commerce indicated that ''producers and/or exporters in Brunei or the Philippines may request reconsideration of our denial of the certification process in a future segment of the proceeding, *i.e.,* a changed circumstances review or administrative review.'' [3]

On December 23, 2021, the HLD companies submitted changed circumstances review requests, in which they claim that they are able to identify and segregate welded OCTG made using non-Chinese hot-rolled steel by either HLDS (B) in Brunei or HLD Clark in the Philippines and then subsequently exported from either Brunei or the Philippines to the United States.[4] The HLD companies request that Commerce find them eligible for certification of these welded OCTG as non-subject merchandise. In response to Commerce's requests for additional information, the HLD companies submitted their supplemental responses on January 18, 2022,[5] and January 24, 2022.[6]

Scope of the Orders

The scope of these orders consists of certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the orders also covers OCTG coupling stock. Excluded from the scope of the orders are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise covered by the orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the orders may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the orders is dispositive.

Initiation of Changed Circumstances Reviews

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d), Commerce will conduct a changed circumstances review upon receipt of a request from an interested party or receipt of information concerning an antidumping and/or countervailing duty order which shows changed circumstances sufficient to warrant a review of the order. In accordance with 19 CFR 351.216(d),

[1] *See Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Determinations of Circumvention*, 86 FR 67443 (November 26, 2021) (*Final Determinations*); *see also Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 28551 (May 21, 2010); and *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010).

[2] *See Final Determinations,* 86 FR 67444.

[3] *Id.*

[4] *See* HLD Companies' Letters, ''Request for Changed Circumstances Review,'' dated December 23, 2021 (CCR Request), and ''First Supplemental Questionnaire Response'' dated January 18, 2022 (First Supplemental Response).

[5] *See* First Supplemental Response.

[6] *See* HLD Companies' Letter, ''Second Supplemental Questionnaire Response,'' dated January 24, 2022 (Second Supplemental Response).

Commerce finds that the HLD companies provided sufficient information to initiate the changed circumstances reviews. Therefore, we are initiating the changed circumstances reviews pursuant to sections 751(b)(1) of the Act and 19 CFR 351.216(d) to determine whether the HLD companies are: (1) Able to identify welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines using non-Chinese hot-rolled steel and exported from either Brunei or the Philippines to the United States; and (2) eligible for the certification process.

Preliminary Results of Changed Circumstances Reviews

Commerce is conducting these changed circumstances reviews in accordance with sections 751(b)(1) of the Act. We preliminarily determine that, since the publication of the *Final Determinations*, the HLD companies have demonstrated in their changed circumstances review requests that they are able to identify and segregate welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines using non-Chinese hot-rolled steel and exported from either Brunei or the Philippines to the United States.

The HLD companies claim that, right after the *Preliminary Determinations*, they implemented ''changes for separating hot-rolled steel of Chinese-origin from hot-rolled steel of non-Chinese-origin, and finished pipes produced using hot-rolled steel from Chinese-origin and non-Chinese-origin, both physically and in the HLD Companies' accounting records.'' [7] To support these claims, the HDL companies provided company resolutions detailing the implementations of these changes.[8]

The HLD companies claim that they now store: (1) Chinese hot-rolled steel and non-Chinese hot-rolled steel separately in separate storage zones in their production facilities; and (2) welded OCTG produced using Chinese hot-rolled steel and welded OCTG produced using non-Chinese hot-rolled steel in separate storage zones in their production facilities.[9] To support these assertions, the HLD companies provided photos of these storage zones and the blueprints of the production facilities with identification of specific storage zones.[10]

The HLD companies explain that it has been their business practice to mark OCTG with the heat number of the steel mill that produced the hot-rolled steel, in accordance with the OCTG industry's traceability requirements. The HLD companies claim that, in addition to the heat number, they began to mark OCTG with the bill of lading number of their imported hot-rolled steel to enhance the traceability of the country of origin of each hot-rolled steel.[11] To support these claims, the HLD companies provided photos of finished OCTG with these markings.[12]

The HLD companies claim that they maintain separate production records that track finished OCTG produced using Chinese hot-rolled steel and finished OCTG produced using non-Chinese hot-rolled steel.[13] The HLD companies claim that they each record: ''(i) the Chinese and non-Chinese hot-rolled steel under separate raw material accounts; (ii) finished pipes produced using Chinese and non-Chinese hot-rolled steel under separate finished goods accounts; and (iii) sales of pipes from Chinese and non-Chinese hot-rolled steel under separate export sales accounts.'' [14] To support these claims, the HLD companies provided mill certificate traces and accounting records screenshots.[15]

We have examined the information provided by the HLD companies, and we preliminarily find that the HLD companies are now able to identify and effectively segregate welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines using non-Chinese hot-rolled steel from other OCTG produced at their facilities.

If these preliminary results are adopted in our final results of these changed circumstances reviews, effective on the publication date of our final results, the HLD companies and their importers will be eligible, where appropriate, to certify that welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines and exported from either Brunei or the Philippines were produced using non-Chinese hot-rolled steel. OCTG entering the United States with such certification will not be subject to suspension of liquidation and a requirement to post cash deposits of estimated antidumping and countervailing duties. The draft certification language is attached as an appendix to this notice. Interested parties are invited to comment on the draft certification language in their case briefs.

Suspension of Liquidation and Certification Requirements

In accordance with 19 CFR 351.225(l)(3), if the final results of these reviews remain unchanged from the preliminary results, the suspension of liquidation instructions will remain in effect until further notice. Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of welded OCTGs produced (*i.e.,* assembled or completed) by either HLDS (B) in Brunei or HLD Clark in the Philippines using Chinese hot-rolled steel and exported from either Brunei or the Philippines that were entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the changed circumstances reviews.

Welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines using non-Chinese hot-rolled steel and exported from either Brunei or the Philippines are not subject to the antidumping and countervailing duty orders on OCTG from China. However, imports of such merchandise are subject to certification requirements, and cash deposits may be required if the certification requirements are not satisfied. Accordingly, if an importer enters welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines and exported from either Brunei or the Philippines and claims that the welded OCTG was produced from non-Chinese hot-rolled steel, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described herein and in the certifications contained in the appendix. Where no certification is provided for an entry of welded OCTG produced by either HLDS (B) in Brunei or HLD Clark in the Philippines and exported from either Brunei or the Philippines to the United States, the antidumping and countervailing duty orders on OCTG from China apply to that entry and Commerce intends to instruct CBP to

[7] *See* CCR Request at 4; *see also Oil Country Tubular Goods from the People's Republic of China: Preliminary Affirmative Determinations of Circumvention,* 86 FR 43627, 43629 (August 10, 2021) (signed on August 4, 2021) (*Preliminary Determinations*).

[8] *See* CCR Request at Exhibit 2.

[9] *Id.* at 4.

[10] *Id.* at 4 and Exhibits 3 and 4 for HLD Clark and HLDS (B), respectively.

[11] *Id.* at 4–5.

[12] *Id.* at Exhibit 5; *see also* First Supplemental Response at 2 and Exhibit SQ1–3. Because HLDS (B) has not recently made any sales of OCTG, it alternatively provided a photo of non-OCTG pipes to support its assertion. *See* First Supplemental Response at 2; and Second Supplemental Response at 1 and Exhibit SQ2–2.

[13] *See* CCR Request at 5 and Exhibits 6 and 7.

[14] *Id.* at 5 and Exhibits 8 and 9; *see also* First Supplemental Response at 1–3 and Exhibits SQ1–4—SQ1–10.

[15] *See* CCR Request at 5–7 and Exhibit 10; *see also* First Supplemental Response at 1–3 and Exhibits SQ1–2, SQ1–4—SQ1–10; and Second Supplemental Response at 1 and Exhibits SQ2–1 and SQ2–3.

suspend the entry and collect cash deposits of estimated antidumping duties equal to the rate established for the China-wide entity, *i.e.,* 99.14 percent,[16] and cash deposits of estimated countervailing duties equal to the current all-others rate, *i.e.,* 27.08 percent.[17]

For shipments and/or entry summaries made on or after the date of publication of the initiation of the changed circumstances reviews through 30 days after the date of publication of the final results of these changed circumstances reviews for which certifications are required, importers and exporters should complete the required certification within 30 days after the publication of the final results of these changed circumstances reviews in the **Federal Register**. Accordingly, where appropriate, the relevant item in the certification should be modified to reflect that the certification was completed within the time frame specified above. For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof. For shipments and/or entries made on or after 31 days after the date of publication of the final results of these changed circumstances reviews in the **Federal Register**, for which certifications are required, importers should complete the required certification at or prior to the date of entry summary, and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

Public Comment

Interested parties may submit case briefs no later than 14 days after the publication of this notice.[18] Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the deadline for filing case briefs.[19] Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.[20] Parties who submit case briefs or rebuttal briefs in these changed circumstances reviews are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Interested parties that wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, within 14 days of publication of this notice.[21] The hearing request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* An electronically filed document must be received successfully in its entirety by no later than 5:00 p.m. Eastern Time on the date the document is due.

Notifications to Interested Parties

Consistent with 19 CFR 351.216(e), we intend to issue the final results of these changed circumstances reviews no later than 270 days after the date on which these reviews were initiated, or within 45 days after the publication of the initiation and preliminary results if all parties in these changed circumstances reviews agree to our preliminary results. The final results will include Commerce's analysis of issues raised in any written comments.

We are issuing and publishing this notice of initiation and preliminary results in accordance with sections 751(b)(1) and 777(i) of the Act, 19 CFR 351.216, and 19 CFR 351.221(c)(3)(i).

Dated: February 7, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Exporter Certification

Special Instructions: The party that made the sale to the United States should fill out the exporter certification. Only parties that exported welded OCTG produced by either HLDS (B) Steel Sdn. Bhd. in Brunei or HLD Clark Steel Pipe Co., Inc. in the Philippines are eligible for this certification process.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF EXPORTING COMPANY}, located at {ADDRESS};

B. I have direct personal knowledge of the facts regarding the production and exportation of the welded oil country tubular goods (OCTG) identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

C. Welded OCTG produced in either Brunei or the Philippines and covered by this certification were not manufactured using hot-rolled steel produced in the People's Republic of China (China).

D. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}. (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller: (If the foreign seller and the producer are the same party, put NA here.)

E. The welded OCTG covered by this certification were shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

F. I understand that {NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

G. I understand that {NAME OF EXPORTING COMPANY} must provide a copy of this Exporter Certification to the U.S. importer by the date of shipment.

H. I understand that {NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and

[16] *See Oil Country Tubular Goods from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 32125, 32126 (July 5, 2019).

[17] *See Oil Country Tubular Goods from the People's Republic of China: Notice of Court Decision Not in Harmony With the Amended Final Determination of the Countervailing Duty Investigation,* 82 FR 25770 (June 5, 2017).

[18] *See* 19 CFR 351.309(c)(1)(ii). (''Any interested party . . . may submit a 'case brief' within . . . 30 days after the date of publication of the preliminary results of {a changed circumstances} review, *unless the Secretary alters the time limit* . . . '') (Emphasis added).

[19] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'')

[20] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[21] *See* 19 CFR 351.310(c) (''Any interested party may request that the Secretary hold a public hearing on arguments to be raised in case or rebuttal briefs within 30 days after the date of publication of the . . . preliminary results of review, *unless the Secretary alters this time limit* . . .'') (Emphasis added); *see also* 19 CFR 351.303 for general filing requirements.

supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce).

I. I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce.

J. I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping and countervailing duty orders on welded OCTG from China. I understand that such finding will result in:

1. Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and

2. the requirement that the importer post applicable antidumping and countervailing duty cash deposits (as appropriate) equal to the rates as determined by Commerce; and

3. the revocation of {NAME OF EXPORTING COMPANY}'s privilege to certify future exports of welded OCTG from either Brunei or the Philippines as not manufactured using hot-rolled steel from China.

K. This certification was completed at or prior to the date of shipment;

L. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL
TITLE
DATE

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADRESS OF IMPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of welded oil country tubular goods (OCTG) produced in either Brunei or the Philippines that entered under entry summary number(s) identified below and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.,* the name of the exporter) in its records.

C. If the importer is acting on behalf of the first U.S. customer, complete this paragraph, if not put ''NA'' at the end of this paragraph: Welded OCTG covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

D. Welded OCTG covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.

E. I have personal knowledge of the facts regarding the production of the welded OCTG identified below. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the country of manufacture of the imported products).

F. Welded OCTG covered by this certification were not manufactured using hot-rolled steel produced in the People's Republic of China (China).

G. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #: Foreign Seller:
Foreign Seller's Address: Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Producer:
Producer's Address:

H. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry, or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

I. I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce), upon request by the respective agency.

J. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or export of the imported merchandise identified above), and any supporting records provided by the exporter to the importer, for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

K. I understand that {NAME OF IMPORTING COMPANY} is required, upon request, to provide a copy of the exporter's certification and any supporting records provided by the exporter to the importer, to CBP and/or Commerce.

L. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

M. I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a de facto determination that all entries to which this certification applies are within the scope of the antidumping and countervailing duty orders on welded OCTG from China. I understand that such finding will result in:

1. Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

2. the requirement that the importer post applicable antidumping and countervailing duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

3. the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of welded OCTG from either Brunei or the Philippines as not manufactured using hot-rolled steel from China.

N. I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

O. This certification was completed at or prior to the date of entry summary.

P. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL
TITLE
DATE

[FR Doc. 2022–03048 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposal To Find That Texas Has Satisfied Conditions on Earlier Approval

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and U.S. Environmental Protection Agency.

ACTION: Notice of proposed finding; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) (hereafter, ''the agencies'') invite public comment on the agencies' proposed finding that Texas has satisfied all conditions the agencies established as part of their 2003 approval of the State's coastal nonpoint pollution control program (coastal nonpoint program). The Coastal Zone Act Reauthorization Amendments (CZARA) directs states and territories with coastal zone management programs previously approved under Section 306 of the Coastal Zone Management Act to

develop and implement coastal nonpoint programs, which must be submitted to the **Federal Register** for approval. Prior to making such a finding, NOAA and the EPA invite public input on the agencies' rationale for this proposed finding.

DATES: Comments are due by March 16, 2022.

ADDRESSES: Copies of the proposed findings document may be found on *www.regulations.gov* (search for NOAA–NOS–2020–0168) and NOAA's Coastal Nonpoint Pollution Control Program website at *https://coast.noaa.gov/czm/pollutioncontrol/.*

Comments may be submitted by:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NOS–2020–0168 in the Search box, then click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Joelle Gore, Chief, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910; phone (240) 428–7096; ATTN: Texas Coastal Nonpoint Program.

Instructions: 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 personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. The agencies will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The agencies 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 FURTHER INFORMATION CONTACT: Allison Castellan, Office for Coastal Management, NOS, NOAA, 202–596–5039, *allison.castellan@noaa.gov;* or Brian Fontenot, EPA, 214–665–7286, *fontenot.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 6217(a) of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. Section 1455b(a), requires that each state (or territory) with a coastal zone management program previously approved under Section 306 of the Coastal Zone Management Act must prepare and submit to the agencies a coastal nonpoint pollution control program for approval. Texas submitted its program to the agencies for approval after gaining federal approval of its coastal zone management program in 1996. The agencies provided public notice of and invited public comment on their proposal to approve, with conditions, the Texas program (68 FR 16784). The agencies approved the program by the **Federal Register** notice dated October 16, 2003, subject to the conditions specified therein (68 FR 59588). The agencies now propose to find, and invite public comment on the proposed findings, that Texas has satisfied the conditions associated with the earlier approval of its coastal nonpoint program.

The proposed findings document for Texas's program is available at *www.regulations.gov* (search for NOAA–NOS–2020–0168) and information on the Coastal Nonpoint Program in general is available on the NOAA website at *https://coast.noaa.gov/czm/pollutioncontrol/.*

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Radhika Fox,

Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 2022–03062 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB806]

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 three-day hybrid meeting for both in-person and virtual participation of its Standing, Reef Fish, Socioeconomic, and Ecosystem Scientific and Statistical Committees (SSC).

DATES: The meeting will take place Tuesday, March 8, 2022 to Thursday, March 10, 2022, from 9 a.m. to 5:30 p.m., EST daily.

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 ''meeting tab''.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, March 8, 2022; 9 a.m.–5:30 p.m., EST

The meeting will begin with Introductions and Adoption of Agenda, Approval of Verbatim Minutes and Meeting Summary from the January 11–13, 2022, meeting, and review of Scope of Work. The Committees will select an SSC Representative for the April 4–7, 2022, Gulf Council Meeting. Following, Committees will review the Estimating Absolute Abundance of Red Snapper off Louisiana; discuss the Results of Post-stratification Analysis by Southeast Fisheries Science Center (SEFSC), Florida Fish and Wildlife Conservation Commission (FWC), and Great Red Snapper Count (GRSC) Teams for Florida Absolute Abundance Data; review the Gulf of Mexico Red Grouper Interim Analysis; and review the Terms of Reference for the Southeast Data, Assessment, and Review (SEDAR) 64: Southeastern U.S. Yellowtail Snapper Update Assessment, and the SEDAR 85: Gulf of Mexico Yellowedge Grouper Operational Assessment. Public comment will be heard at the end of the day.

Wednesday, March 9, 2022; 9 a.m.–5:30 p.m., EST

The Committees will review the Characterizing Fleet Behavior Using Analysis of Vessel Monitoring Service Data; review and discuss the National Academies of Report on the Impacts of Limited Access Privilege Programs in Mixed-use Fisheries; and evaluate the Updated SEFSC Catch Analysis for Gulf of Mexico Red Snapper using the Great Red Snapper Count. Public comment will be heard at the end of the day.

Thursday, March 10, 2022; 9 a.m.–5:30 p.m., EST

The Committees will continue evaluating the Updated SEFSC Catch Analysis for Gulf of Mexico Red Snapper using the Great Red Snapper Count, followed by a review of an

Update on the Development of Brown and White Shrimp Empirical Dynamic Models. Lastly, the Committees will receive public comment before addressing any items under Other Business.

Meeting Adjourns

The meeting will be also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC 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 Scientific and Statistical Committees 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 Scientific and Statistical 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: February 9, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–03103 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB798]

Marine Mammals; File No. 26254

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Alaska Department of Fish & Game (ADF&G), 1300 College Road, Fairbanks, AK 99701 (Responsible Party: Lori Quakenbush), has applied in due form for a permit to conduct research on ice seals in Alaska.

DATES: Written, telefaxed, or email comments must be received on or before March 16, 2022.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 26254 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26254 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a permit to conduct scientific research on spotted (*Phoca largha*), ringed (*Pusa hispida*), bearded (*Erignathus barbatus*), and ribbon (*Histriophoca fasciata*) seals in the Bering, Chukchi, and Beaufort seas of Alaska. The purpose of this research is to monitor the status and health of seal species by analyzing samples from the subsistence harvest and by documenting movements and habitat use by tracking animals with satellite transmitters. In addition to sampling harvested seals, the applicant would capture up to 50 bearded seals, 20 ribbon seals, 50 ringed seals, and 50 spotted seals per year that would be sedated, measured, sampled (*e.g.,* blood and skin), flipper tagged, and fitted with transmitters. The applicant requests to capture an additional 50 bearded seals, 20 ribbon seals, 50 ringed seals, and 50 spotted seals per year that would be measured, sampled, and flipper tagged but not fitted with external instruments. The applicant also requests permission to harass non-target seals of all four pinniped species as well as beluga whales (*Delphinapterus leucas*). The applicant requests up to five mortalities per species per year for pinniped captures and one mortality of a beluga whale annually due to accidental entanglement in pinniped capture nets. Samples would be imported from Russia, Canada, Svalbard (Norway) and exported to Canada for analyses. The permit would be valid for 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 8, 2022.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–03061 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB803]

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's (Pacific Council) Ad Hoc Marine Planning Committee (MPC) will hold a public online meeting.

DATES: The online meeting will be held Friday, March 4, 2022, from 1 p.m. to 5 p.m. Pacific Standard Time 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 send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

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 this online meeting is to discuss the next steps in the authorization process for commercial offshore wind energy leasing, including a description of proposed offshore wind (OSW) planning Call Area(s) off the Oregon Coast and to solicit public comment. This meeting will include representatives from the Bureau of Ocean Energy Management (BOEM), who will provide a presentation on the proposed Call Area(s), followed by discussion with the MPC and meeting participants. The meeting is open to all interested parties with a primary audience focus of fishery sector participants and stakeholders that operate in Oregon, particularly in the Oregon offshore wind planning area (see *www.boem.gov/OR_PlanningArea_NOAAChart*). The proposed Call Area(s) are scheduled to be presented at the February 25, 2022, meeting of the BOEM Oregon Intergovernmental Renewable Energy Task Force (Task Force) meeting (see *www.boem.gov/Oregon* for meeting information). This MPC meeting follows the Task Force meeting, with the objective of continued outreach and engagement. BOEM may schedule or be invited to participate in additional sector-specific meetings to continue outreach and engagement efforts related to OSW planning activities. The meeting agenda and instructions on attending the meeting will be available on the Pacific Council's website in advance of the meeting.

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. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*; (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: February 9, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–03102 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB795]

South Atlantic 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 South Atlantic Fishery Management Council (Council) will hold meetings of the following: Southeast Data, Assessment and Review (SEDAR) Committee; Dolphin Wahoo Committee, Mackerel Cobia Committee, Snapper Grouper Committee, and Executive Committee. The meeting week will also include a formal public comment session and a meeting of the Full Council.

DATES: The Council meeting will be held from 1 p.m. on Monday, March 7, 2022, until 12 p.m. on Friday, March 11, 2022.

ADDRESSES:

Meeting address: The meeting will be held at the Westin Hotel, 110 Ocean Way, Jekyll Island, GA 31527; phone: (912) 635–4545. The meeting will also be available via webinar. Registration is required. See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 302–8440 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Meeting information, including agendas, overviews, and briefing book materials will be posted on the Council's website at: *http://safmc.net/safmc-meetings/council-meetings/.* Webinar registration links for the meeting will also be available from the Council's website.

Public comment: Public comment on agenda items may be submitted through the Council's online comment form available from the Council's website at: *http://safmc.net/safmc-meetings/council-meetings/.* Comments will be accepted from February 18, 2022, until March 11, 2022. These comments are accessible to the public, part of the Administrative Record of the meeting, and immediately available for Council consideration.

The items of discussion in the individual meeting agendas are as follows:

Council Session I, Monday, March 7, 2022, 1 p.m. Until 4 p.m.

The Council will receive reports from state agencies, Council liaisons, NOAA Office of Law Enforcement, and the U.S. Coast Guard. The Council will then receive an update on the Acceptable Biological Catch Control Rule Amendment and discuss use of the Allocation Decision Tool for informing future sector allocations decisions.

SEDAR Committee, Monday, March 7, 2022, 4 p.m. Until 5 p.m.

The Committee will review and approve the Terms of Reference for the Yellowtail Snapper Interim Analysis and the Statement of Work for Golden Tilefish.

Dolphin Wahoo Committee, Tuesday, March 8, 2022, 8:30 a.m. Until 10 a.m.

The Committee will consider options for a Size Limit and Recreational Limits Framework Amendment to the Fishery Management Plan for the Dolphin Wahoo Fishery of the Atlantic and consider approving for public scoping. The Committee will also review and approve topics for the spring 2022 meeting of the Dolphin Wahoo Advisory Panel (AP).

Mackerel Cobia Committee, Tuesday, March 8, 2022, 10 a.m. Until 12 p.m.

The Committee will receive input from the Law Enforcement AP on Coastal Migratory Pelagics (CMP) Amendment 34 to allow retention of cut/damaged king mackerel for the recreational sector. CPM Amendment 34 addresses other management measures for Atlantic king mackerel and for Spanish mackerel in the South Atlantic. The Committee will consider approving CMP Amendment 34 for Secretarial review. The Committee will review CMP Amendment 33 addressing management of Gulf migratory group

king mackerel and continue work on the amendment.

Snapper Grouper Committee, Tuesday, March 8, 2022, 1:30 p.m. Until 5 p.m.; Wednesday, March 9, 2022, 8:30 a.m. Until 3:45 p.m.; and Thursday, March 10, 2022, 8:30 a.m. Until 12 p.m.

The Committee will review initial public scoping input received on the Release Mortality Reduction and Red Snapper Catch Levels Framework Amendment and input from its Law Enforcement AP on the amendment. The Committee will provide further guidance on the range of actions to explore in the amendment to reduce the number of dead releases in the fishery and improve survival of released fish. The Committee will consider input from its Private Recreational Permitting and Reporting Workgroup and discuss reinitiating work on Amendment 46 to the Snapper Grouper Fishery Management Plan to address permitting and reporting requirements for the private recreational sector. The Committee will receive an update on Snapper Grouper Amendment 48 addressing modernization of the Wreckfish Individual Transferable Quota (ITQ) Program and provide direction to staff. The Committee will discuss management changes for greater amberjack being addressed in Amendment 49 and consider approving the amendment for public hearings. The Committee will receive input from the Law Enforcement AP on actions being considered in Amendment 50 addressing management of red porgy in the South Atlantic, make any necessary modifications, and consider recommending for formal Secretarial review. The Committee will review Snapper Grouper Amendments 51, 52, and 53, addressing management of snowy grouper, golden and blueline tilefish, and gag grouper, respectively, review public input received during scoping for the amendments and provide guidance on further development. Additionally, the Committee will receive a fishery overview for blueline tilefish and recommendations from its Scientific and Statistical Committee (SSC) regarding requested rebuilding projections for gag grouper. The Committee will then receive updates on red snapper recreational landings, the Management Strategy Evaluation (MSE) Project, the South Atlantic Red Snapper and Greater Amberjack Projects, and approve topics for the spring 2022 meeting of the Snapper Grouper AP.

Formal Public Comment, Wednesday, March 9, 2022, 4 p.m.—Public comment will be accepted from individuals attending the meeting on all items on the Council meeting agenda. The Council Chair will determine the amount of time provided to each commenter based on the number of individuals wishing to comment.

Executive Committee, Thursday, March 10, 2022, 1:30 p.m. Until 2:30 p.m.

The Committee will receive an update on Council Coordination Committee (CCC) activities.

Council Session II, Thursday, March 10, 2022, 2:30 p.m. Until 5 p.m. and Friday, March 11, 2022, 8:30 a.m. Until 12 p.m.

The Council will receive a briefing on any legal issues, if needed, followed by an update of the Southeast Reef Fish Survey (SERFS). The Council will receive reports from staff including updates from the Executive Director, the Climate Change Scenario Planning Initiative, activities of the Area Based Management Sub-Committee of the CCC, and the Council's Citizen Science and Outreach and Communication Programs. The Council will then consider and approve topics for the spring 2022 meetings of the Council's Advisory Panels. The Council will receive reports from NOAA Fisheries Southeast Regional Office, including updates on the Southeast For-Hire Electronic Reporting Program and a protected resources update. The Council will receive Committee reports, review its workplan for the next quarter and upcoming meetings, and take action as necessary. Updates from the NOAA Fisheries Southeast Fisheries Science Center will conclude the meeting, including an update on commercial e-logbook progress. The Council will discuss any other business as necessary.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) (5) days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 9, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–03100 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB802]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Partial Coverage Fishery Monitoring Advisory Committee (PCFMAC) will meet March 3, 2022.

DATES: The meeting will be held on Thursday, March 3, 2022, from 8 a.m. to 12 p.m. Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2793*.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sara Cleaver, Council staff; phone; (907) 271–2809 and email: *sara.cleaver@noaa.gov.* For technical support, please contact administrative Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, March 3, 2022

The PCFMAC agenda will include (a) status update on the cost efficiencies analysis; (b) public comment; and (c) other issues and future scheduling. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2793* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2793.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2793.*

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

Dated: February 9, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–03101 Filed 2–11–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intended Disinterment

AGENCY: Department of the Army, DoD.

ACTION: Notice of intended disinterment.

SUMMARY: The Office of Army Cemeteries (OAC) is honoring the requests of the family members to disinter the human remains of 6 Native American students from the Carlisle Barracks Post Cemetery, Carlisle, Pennsylvania. The decedent names are: Raleigh James from the Washoe tribe, Wade Ayres from the Catawba tribe, Anatasia Achwak(Ashowak) and Anna Vereskin from the Alaskan (Aleut) tribe, Ellen Macy from the Umqua tribe and Frank Green from the Oneida tribe. These students died between 1880 and 1910 while attending the Carlisle Indian Industrial School. At the request of the closest living relative for each decedent, OAC will disinter and facilitate the transport and reinternment of the remains in private cemeteries chosen by the families at government expense. This disinterment will be conducted in accordance with Army Regulation 290–5. This is not a Native American Graves Protection and Repatriation Act (NAGPRA) action because the remains are not part of a collection. They are interred in graves that are individually marked at the Carlisle Barracks Post Cemetery.

DATES: The disinterment is scheduled to begin on June 17, 2022. Transportation to and re-interment in private cemeteries will take place as soon as practical after the disinterment. If other living relatives object to the disinterment of these remains, please provide written objection to Captain Travis Fulmore at the email addresses listed below prior to March 1st, 2022. Such objections may delay the disinterment for the decedent in question.

ADDRESSES: Objections from family members and public comments can be mailed to Captain Travis Fulmore, OAC Project Manager, 1 Memorial Avenue, Arlington, VA 22211 or emailed to *usarmy.pentagon.hqda-anmc.mbx.accountability-coe@mail.mil* (preferred).

FOR FURTHER INFORMATION CONTACT: Captain Travis Fulmore, OAC Project Managers, 703–695–3570, or at *usarmy.pentagon.hqda-anmc.mbx.accountability-coe@mail.mil* (preferred).

SUPPLEMENTARY INFORMATION: Additional information related to Native Americans buried at the Carlisle Barracks Post Cemetery can be found at *https://armycemeteries.army.mil/Cemeteries/Carlisle-Barracks-Main-Post-Cemetery*

James W. Satterwhite Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2022–03111 Filed 2–11–22; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees—Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces

AGENCY: Department of Defense (DoD).

ACTION: Charter renewal of Federal Advisory Committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the charter for the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC–IPAD).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Advisory Committee Management Officer, 703–692–5952.

SUPPLEMENTARY INFORMATION: The DAC–IPAD's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102–3.50(d). The charter and contact information for the DAC–IPAD's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

Pursuant to section 546(c)(1) of the FY 2015 NDAA, the DAC–IPAD shall provide independent advice and recommendations to the Secretary of Defense and the Deputy Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces, based on its ongoing review of cases. Pursuant to Section 546(c)(2) and (d) of the FY 2015 NDAA, the DAC–IPAD, not later than March 30 of each year, will submit to the Secretary of Defense through the General Counsel of the Department of Defense (GC DoD), and the Committees on Armed Services of the Senate and House of Representatives, a report describing the results of the activities of the DAC–IPAD pursuant to Section 546 of the FY 2015 NDAA, as amended, during the preceding year. The DAC–IPAD will also focus on matters of special interest to the DoD, as determined by the Secretary of Defense, the Deputy Secretary of Defense, or the GC DoD, as the DAC–IPAD's sponsor.

Pursuant to Section 546(b) of the FY 2015 NDAA, the DAC–IPAD will be composed of no more than 20 members who must have extensive experience and subject matter expertise in the investigation, prosecution, or defense of allegations of sexual offenses. DAC–IPAD members may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as DAC–IPAD members.

Individual members are 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 DAC–IPAD. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the DAC–IPAD, or serve on more than two DoD Federal advisory committees at one time.

DAC–IPAD members who are not full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, are appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. DAC–IPAD members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services are appointed pursuant to 41 CFR 102–

3.130(a), to serve as regular government employee members.

All DAC–IPAD members 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 DAC–IPAD-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements about the DAC–IPAD's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the DAC–IPAD. All written statements shall be submitted to the DFO for the DAC–IPAD, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: February 8, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–03035 Filed 2–11–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Amendment of Department of Defense Federal Advisory Committees– Board of Visitors, National Defense University

AGENCY: Department of Defense (DoD).

ACTION: Charter amendment of Federal Advisory committee.

SUMMARY: The DoD is publishing this notice to announce that it is amending the charter for the Board of Visitors, National Defense University (BoV NDU).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Advisory Committee Management Officer, 703–692–5952.

SUPPLEMENTARY INFORMATION: The BoV NDU's charter is being amended in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102–3.50(d). The charter and contact information for the BoV NDU's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The BoV NDU provides the Secretary of Defense and Deputy Secretary of Defense (''the DoD Appointing Authority''), or the Chairman of the Joint Chiefs of Staff (CJCS) with independent advice and recommendations on matters pertaining to the National Defense University specifically on matters pertaining to educate joint warfighters and other national security leaders in critical thinking and the creative application of military power to inform national strategy and globally integrated operations, under conditions of disruptive change, in order to prevail in war, peace, and competition. The BoV NDU is composed of no more than 12 members. Individual members are 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 BoV NDU. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the BoV NDU, or serve on more than two DoD Federal advisory committees at one time.

BoV NDU members who are not full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, are appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. BoV NDU members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services are appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All BoV NDU members 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 BoV NDU-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements about the BoV NDU's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the BoV NDU. All written statements shall be submitted to the DFO for the BoV NDU, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: February 8, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 2022–03033 Filed 2–11–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0017]

Agency Information Collection Activities; Comment Request; Federal Student Aid (FSA) Feedback System

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before April 15, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0017. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested

data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Student Aid (FSA) Feedback System.

OMB Control Number: 1845–0141.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 43,200.

Total Estimated Number of Annual Burden Hours: 7,344.

Abstract: This is a request for extension of the current information collection of the FSA Feedback System, OMB Control 1845–0141. On March 10, 2015, the White House issued a Student Aid Bill of Rights. Among the objectives identified was the creation of a centralized complaint system that is now resident and supported via the Federal Student Aid/Customer Engagement Management System. The purpose of the Customer Engagement Management System (CEMS) is to meet the objective: ''Create a Responsive Student Feedback System: The Secretary of Education will create a new website by July 1, 2016, to give students and borrowers a simple and straightforward way to file complaints and provide feedback about federal student loan lenders, servicers, collections agencies, and institutions of higher education. Students and borrowers will be able to ensure that their complaints will be directed to the right party for timely resolution, and the Department of Education will be able to more quickly respond to issues and strengthen its efforts to protect the integrity of the student financial aid programs.''

Dated: February 8, 2022.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–03031 Filed 2–11–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0015]

Agency Information Collection Activities; Comment Request; National Household Education Survey 2023 (NHES:2023) Full-Scale Data Collection

AGENCY: Institute of Educational Science (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement with change of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before April 15, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0015. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208B, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Household Education Survey 2023 (NHES:2023) Full-scale Data Collection.

OMB Control Number: 1850–0768.

Type of Review: A reinstatement with change of a previously approved information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 137,150.

Total Estimated Number of Annual Burden Hours: 18,295.

Abstract: The National Household Education Surveys Program (NHES) collects data directly from households on early childhood care and education, children's readiness for school, parents' perceptions of school safety and discipline, before- and after-school activities of school-age children, participation in adult and career education, parents' involvement in their children's education, school choice, homeschooling, and civic involvement. NHES surveys were conducted approximately every other year from 1991 through 2007 using random digit dial (RDD) sampling and telephone data collection from landline telephones only. Due to declining response rates in all RDD surveys, NCES redesigned NHES to collect data through self-administered mailed questionnaires for the 2012 administration, which

included the Early Childhood Program Participation (ECPP), the Parent and Family Involvement in Education-Enrolled (PFI–E), and the Parent and Family Involvement in Education-Homeschooled (PFI–H) topical surveys. NHES:2016 continued the mail-based collection methodology, while also experimenting with the use of web survey collection. NHES:2019 continued the mail-based collection methodology and used the same methodology developed in the NHES:2016 web experiment for the majority of the sampled addresses. In 2019, 57 percent of cases responded by web, 36 by paper, and 7 percent by inbound phone. Also in 2019, PFI surveys for parents of enrolled and homeschooled students were merged into one survey instrument. NHES:2023 will again field the ECPP and the combined PFI survey used in the NHES:2019. NHES:2023 will use the same methodology developed in the NHES:2019 for the majority of sampled addresses, but will incorporate lessons learned from NHES:2019's methodological experiments. Furthermore, given the potential change in the education landscape since COVID–19, particularly for online coursework, NCES plans to conduct a debriefing project with respondents during the NHES:2023 administration. The goal of the study is to gain greater insight about respondents who indicate that their child was enrolled in online courses. The debriefing interviews are designed to understand the true schooling experiences of these children and how well the survey functioned in capturing the context of these children's virtual education experiences. The debriefing interviews will provide information that will assist NCES in understanding the NHES:2023 data on virtual education and in crafting items for future NHES administrations that will more accurately capture the details of virtual education.

Dated: February 9, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–03099 Filed 2–11–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Electricity Advisory Committee

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Electricity Advisory Committee (EAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, March 9, 2022; 11:45 a.m.–6:05 p.m. EST; Thursday, March 10, 2022; 11:45 a.m.—5:00 p.m. EST.

ADDRESSES: Due to ongoing precautionary measures surrounding the spread of COVID–19, the March meeting of the EAC will be held via WebEx video and teleconference. In order to track all participants, the Department is requiring that those wishing to attend register for the meeting here: *https://www.energy.gov/oe/march-9-10-2022-meeting-electricity-advisory-committee.* Please note, you must register for each day you would like to attend.

FOR FURTHER INFORMATION CONTACT: Matt Aronoff, Acting Designated Federal Officer, Office of Electricity, U.S. Department of Energy, Washington, DC 20585; Telephone: (240) 306–7866 or Email: *matthew.aronoff@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The EAC was established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, to provide advice to the U.S. Department of Energy (DOE) in implementing the Energy Policy Act of 2005, executing certain sections of the Energy Independence and Security Act of 2007, and modernizing the nation's electricity delivery infrastructure. The EAC is composed of individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to the electric sector.

Tentative Agenda

March 9, 2022

11:45 a.m.–12:00 p.m.—WebEx Attendee Sign-On

12:00 p.m.–12:20 p.m.—Welcome, Introductions, Developments since the October 2021 Meeting

12:20 p.m.–12:50 p.m.—Update on Office of Electricity Programs and Initiatives

12:50 p.m.–1:20 p.m.—Update on Federal Energy Regulatory Commission Activities

1:20 p.m.–1:30 p.m.—Break

1:30 p.m.–3:30 p.m.—Facilitating the Integration and Commercialization of Energy Storage: How DOE can Leverage its Role and Resources

3:30 p.m.–3:50 p.m.—Break

3:50 p.m.–5:50 p.m.—Data Interoperability for a Smooth Transition of EV Deployment

5:50 p.m.–6:05 p.m.—Wrap-up and Adjourn Day 1

March 10, 2022

11:45 a.m.–12:00 p.m.—WebEx Attendee Sign-On

12:00 p.m.–12:10 p.m.—Day 2 Opening Remarks

12:10 p.m.–12:40 p.m.—Briefing: Cyber-Informed Engineering Strategy

12:40 p.m.–2:20 p.m.— Panel and Discussion: DOE Recommendations to the White House on the Energy Sector Industrial Base

2:20 p.m.–2:35 p.m.—Break

2:35 p.m.–3:35 p.m.—Update and Discussion on Section 8008 Voluntary Model Pathways Development

3:35 p.m.–3:55 p.m.—Subcommittee Update: Grid Resilience for National Security

3:55 p.m.–4:10 p.m.—Subcommittee Update: Energy Storage

4:10 p.m.–4:25 p.m.—Subcommittee Update: Smart Grid

4:25 p.m.–4:45 p.m.—Public Comments

4:45 p.m.–5:00 p.m.—Wrap-up and Adjourn March 2022 Meeting of the EAC

The meeting agenda and times may change to accommodate EAC business. For EAC agenda updates, see the EAC website at: *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

Public Participation: The EAC welcomes the attendance of the public at its meetings. Individuals who wish to offer public comments at the EAC meeting may do so on March 10, 2022, but must register in advance by 5:00 Eastern Time on March 9, 2022. Approximately 20 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the meeting, or for whom the allotted public comments time is insufficient to address pertinent issues with the EAC, is invited to send a written statement identified by ''Electricity Advisory Committee March 2022 Meeting,'' to Mr. Matt Aronoff at *matthew.aronoff@hq.doe.gov.*

Minutes: The minutes of the EAC meeting will be posted on the EAC web page at *http://energy.gov/oe/services/electricity-advisory-committee-eac.* They can also be obtained by contacting Mr. Matt Aronoff at the address above.

Signed in Washington, DC, on February 8, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–03049 Filed 2–11–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–26–000]

Northern Natural Gas Company; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Des Moines A-Line Capacity Replacement Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Des Moines A-line Capacity Replacement Project (Project) involving abandonment, construction and operation of facilities by Northern Natural Gas Company (Northern) in Boone, Dallas, and Polk Counties, Iowa. The Commission will use this environmental document in its decision-making process to determine whether the Project is in the public interest.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the Project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of an authorization. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on March 11, 2022. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on December 3, 2022, you will need to file those comments in Docket No. CP22–26–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Northern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the Project docket number (CP22–26–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Summary of the Proposed Project

Northern proposes to abandon about 29.6 miles of its 16-inch-diameter Des Moines A-line, and install about a 9.1-mile-long extension of its 20-inch-diameter Des Moines C-line, in Boone, Dallas, and Polk Counties, Iowa.

The general location of the Project facilities is shown in appendix 1.[1]

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this

Land Requirements for Construction

Construction of the proposed facilities would disturb at total of about 216 acres of land. Following construction, Northern would maintain about 48 acres for permanent operation of the Project's facilities; the remaining acreage would be restored. The entire new C-Line pipeline segments would parallel the existing A and B Lines.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the abandonment, and construction and operation of the proposed Project under the relevant general resource areas:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use and recreation;
- environmental justice;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed Project or portions of the Project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the Iowa State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; potentially interested Indian tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP22–26–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: February 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–03095 Filed 2–11–22; 8:45 am]

BILLING CODE 6717–01–P

notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–24–000]

Equitrans, L.P.; Notice of Schedule for the Preparation of an Environmental Assessment for the Truittsburg Well Conversion Project

On December 2, 2021, Equitrans, L.P. filed an application in Docket No. CP22–24–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Truittsburg Well Conversion Project (Project), and would convert two observation wells into injection/withdrawal (I/W) wells in the existing Truittsburg Storage Field in Clarion County, Pennsylvania.

On December 13, 2021, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA March 7, 2022
90-day Federal Authorization Decision Deadline June 5, 2022

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Equitrans is proposing to add approximately 1,119 feet of 4-inch-diameter natural gas pipeline to convert Truittsburg wells 2483 and 2484 from observation wells to I/W wells and install pigging[2] valves at the wellheads and associated piping.

[1] 40 CFR 1501.10 (2020).

[2] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

Background

On January 5, 2022, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Truittsburg Well Conversion Project* (Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping, the Commission received comments from one landowner in support of the Project. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP22–24), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: February 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–03094 Filed 2–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–29–000; QF15–850–003.

Applicants: Magnolia Solar, LLC, Magnolia Solar, LLC.

Description: Petition for Enforcement of the Public Utility Regulatory Policies Act of 1978 of Magnolia Solar, LLC.

Filed Date: 2/8/22.

Accession Number: 20220208–5101.

Comment Date: 5 p.m. ET 3/1/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–680–001.

Applicants: Southern California Edison Company.

Description: Tariff Amendment: Revised WDAT Enhancements 2021 to be effective 4/10/2022.

Filed Date: 2/8/22.

Accession Number: 20220208–5067.

Comment Date: 5 p.m. ET 3/1/22.

Docket Numbers: ER22–821–001.

Applicants: Spotlight Power LLC.

Description: Tariff Amendment: Amended Spotlight Power LLC Baseline MBR Tariff & Application to be effective 3/16/2022.

Filed Date: 2/8/22.

Accession Number: 20220208–5060.

Comment Date: 5 p.m. ET 3/1/22.

Docket Numbers: ER22–1001–000.

Applicants: Union Electric Company.

Description: § 205(d) Rate Filing: Joint Ownership Agreement—UE–MJMEUC-Hannibal to be effective 1/1/2022.

Filed Date: 2/8/22.

Accession Number: 20220208–5000.

Comment Date: 5 p.m. ET 3/1/22.

Docket Numbers: ER22–1002–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original IISA, Service Agreement No. 6327; Queue Nos. AF1–130/AF1–162 to be effective 1/10/2022.

Filed Date: 2/8/22.

Accession Number: 20220208–5026.

Comment Date: 5 p.m. ET 3/1/22.

Docket Numbers: ER22–1003–000.

Applicants: Southwestern Public Service Company.

Description: § 205(d) Rate Filing: LPL Second Amended PR Agreement to be effective 2/9/2022.

Filed Date: 2/8/22.

Accession Number: 20220208–5087.

Comment Date: 5 p.m. ET 3/1/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES22–29–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Consolidated Edison of New York Inc.

Filed Date: 2/7/22.

Accession Number: 20220207–5280.
Comment Date: 5 p.m. ET 3/1/22.

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: February 8, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–03071 Filed 2–11–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR22–24–000.
Applicants: Wisconsin Power and Light Company.
Description: Submits tariff filing per 284.123(b),(e)+(g): WPL Statement of Operating Conditions Update to be effective 2/4/2022.
Filed Date: 2/4/2022.
Accession Number: 20220204–5111.
Comment Date: 5 p.m. ET 2/25/22.
284.123(g) Protests Due: 5 p.m. ET 4/5/22.

Docket Numbers: RP22–540–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: TETLP Interim ASA Compliance Filing to be effective 3/1/2022.
Filed Date: 2/7/22.
Accession Number: 20220207–5210.
Comment Date: 5 p.m. ET 2/22/22.

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.

Filings in Existing Proceedings

Docket Numbers: RP22–395–001.
Applicants: East Cheyenne Gas Storage, LLC.
Description: Compliance filing: East Cheyenne Tariff Correction Filing to be effective 1/6/2022.
Filed Date: 1/28/22.
Accession Number: 20220128–5380.
Comment Date: 5 p.m. ET 2/9/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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: February 8, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–03070 Filed 2–11–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9540–01–OW]

Notice of Public Webinar of the Environmental Financial Advisory Board (EFAB) via Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public webinar.

SUMMARY: The Environmental Protection Agency (EPA)'s Environmental Financial Advisory Board (EFAB) will hold a public webinar for the first in a series of webinars as part of a Pollution Prevention Finance Forum to support the EFAB Pollution Prevention workgroup and its charge (*https://www.epa.gov/waterfinancecenter/efab#meeting*). Due to interest from the full Board, this webinar is being opened to the public.

DATES: The webinar will be held on March 9, 2022, from 12 p.m. to 1:30 p.m. (Eastern Time).

ADDRESSES: The webinar will be conducted via teleconference only and is open to the public. Interested persons must register in advance at the weblink below to access the webinar.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants information about the webinar may contact Tara Johnson via telephone/voicemail at (202) 564–6186 or email to *efab@epa.gov.* General information concerning the EFAB is available at *https://www.epa.gov/waterfinancecenter/efab.*

SUPPLEMENTARY INFORMATION:

Background: The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, to provide advice and recommendations to EPA on innovative approaches to funding environmental programs, projects, and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA's Office of Water. Pursuant to FACA and EPA policy, notice is hereby given that the EFAB will hold a public webinar for the following purpose:

The Pollution Prevention Finance Forum is a series of webinars that explore opportunities and challenges in financing sustainability, with an initial focus on advancing-opportunities for small and medium-sized manufacturing businesses. The purpose of this first Forum webinar is to define the common types of pollution prevention (P2) projects relevant to small businesses and manufacturers, characterize the barriers and risks facing businesses and lenders for P2 projects, and explore financing mechanisms and structures that are well-suited to overcome these barriers and risks to enhance financing for P2 projects. P2, also known as source reduction, is any practice that reduces, eliminates, or prevents pollution at its source prior to recycling, treatment, or disposal. More information can be found at *https://www.epa.gov/p2.*

The webinar is open to the public, but no oral public comments will be accepted during the webinar. Written public comments relating to the Forum and EFAB's Pollution Prevention workgroup should be provided in accordance with the instructions below on written statements.

Registration for the Meeting: Register for the meeting at *https://www.zoomgov.com/webinar/register/WN_PmuR5AVvSU2yVSM9E_wBgw.*

Availability of Meeting Materials: Meeting materials (including the meeting agenda and background materials) will be available on EPA's

website at *https://www.epa.gov/waterfinancecenter/efab#meeting.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees provide independent advice to EPA. Members of the public can submit comments on matters being considered by the EFAB for consideration by members as they develop their advice and recommendations to EPA.

Written Statements: Written statements and questions for the webinar should be received by March 4, 2022, so that the information can be made available to the EFAB for its consideration. Written statements and questions should be sent via email to *efab@epa.gov.* Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the EFAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities or to request accommodations for a disability, please register for the webinar and list any special requirements or accommodations needed on the registration form at least 10 business days prior to the meeting to allow as much time as possible to process your request.

Dated: February 8, 2022.

Andrew D. Sawyers,

Director, Office of Wastewater Management, Office of Water.

[FR Doc. 2022–03082 Filed 2–11–22; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2021–6042]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. EXIM's borrowers, financial institution policy holders and guaranteed lenders provide this form to U.S. exporters, who certify to the eligibility of their exports for EXIM support. For direct loans and loan guarantees, the completed form is required to be submitted at time of disbursement and held by either the guaranteed lender or EXIM. For MT insurance, the completed forms are held by the financial institution, only to be submitted to EXIM in the event of a claim filing. EXIM uses the referenced form to obtain information from exporters regarding the export transaction and content sourcing. These details are necessary to determine the value and legitimacy of EXIM financing support and claims submitted. It also provides the financial institutions a check on the export transaction's eligibility at the time it is fulfilling a financing request.

DATES: Comments must be received on or before March 16, 2022 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 21–02) or by email to Donna Schneider <*donna.schneider@exim.gov*>, or by mail to Donna Schneider, Export-Import Bank, 811 Vermont Ave NW, Washington, DC 20571. The information collection tool can be reviewed at: *https://www.exim.gov/sites/default/files/pub/pending/eib21-02.pdf.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please Donna Schneider, *donna.schneider@exim.gov,* 202–565–3612.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 21–02 Co-financing Certificate.

OMB Number: ####–####.

Type of Review: Regular.

Need and Use: The information collected will allow EXIM to determine compliance and content for transaction requests submitted to the Export-Import Bank under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 25.

Estimated Time per Respondent: 30 minutes.

Annual Burden Hours: 12.5 hours.

Frequency of Reporting of Use: As required.

Government Expenses:

Reviewing time per Year: 2.1 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $89.25 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $107.10.

Bassam Doughman,

IT Specialist.

[FR Doc. 2022–03045 Filed 2–11–22; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with the CFPB's and the Board's Regulations V (FR V; OMB No. 7100–0308).

DATES: Comments must be submitted on or before April 15, 2022.

ADDRESSES: You may submit comments, identified by FR V, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax*: (202) 452–3819 or (202) 452–3102.
- *Mail*: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo

identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection:

Report title: Recordkeeping and Disclosure Requirements Associated with the CFPB's and the Board's Regulations V.

Agency form number: FR V.

OMB control number: 7100–0308.

Frequency: Annually.

Respondents: Depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii): (1) Regardless of size, with respect to the identity theft red flags provisions of the Board's Regulation V and (2) with $10 billion or less in assets and any affiliates thereof, for all other provisions.[1]

Estimated number of respondents: Negative information notice, 1,361; Affiliate marketing notices: Notices to consumers, 1,300; Affiliate marketing notices: Consumer opt-out response, 267,860; Identity theft red flags, 2,495; Address discrepancies, 1,361; Risk based pricing notice to consumers, 1,361; Duties of furnishers of information: Policies and procedures, 1,361; and Duties of furnishers of information: Notices of frivolous disputes to consumers, 1,361.

Estimated average hours per response: Negative information notice, 0.25; Affiliate marketing notices: Notices to consumers, 18; Affiliate marketing notices: Consumer opt-out response, 0.08; Identity theft red flags, 37; Address discrepancies, 4; Risk based pricing notice to consumers, 5; Duties of furnishers of information: Policies and procedures, 40; and Duties of furnishers of information: Notices of frivolous disputes to consumers, 0.23.

Estimated annual burden hours: Negative information notice, 340; Affiliate marketing notices: Notices to consumers, 23,400; Affiliate marketing notices: Consumer opt-out response, 21,429; Identity theft red flags, 92,315; Address discrepancies, 5,444; Risk based pricing notice to consumers, 81,660; Duties of furnishers of information: Policies and procedures, 54,440; and Duties of furnishers of information: Notices of frivolous disputes to consumers, 132,099.

General description of report: The Consumer Financial Protection Bureau's (CFPB) Regulation V[2] and the Board's Regulation V[3] (collectively ''FR V Regulations'') implement in part the Fair Credit Reporting Act (FCRA), which was enacted in 1970 based on a Congressional finding that the banking system is dependent on fair and accurate credit reporting.[4] The FCRA was enacted to ensure consumer reporting agencies exercise their responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy. The FCRA requires consumer reporting agencies to adopt reasonable procedures that are fair and equitable to the consumer with regard to the confidentiality, accuracy, relevancy, and proper utilization of consumer information.[5]

Legal authorization and confidentiality: The FR V is authorized by sections 1025 and 1088(a)(2) and (10) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Under the FCRA, as amended by sections 1025 and 1088(a)(10) of the Dodd-Frank Act, the Board is authorized to enforce compliance with the information collection requirements contained in the CFPB's FCRA regulations[6] applicable to institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with $10 billion or less in assets, and applicable to consumers of these institutions.[7] Additionally, pursuant to section 1088(a)(2) and (10) of the Dodd-Frank Act, the Board retained authority under the FCRA to prescribe and enforce the information collection requirements in the Board's FCRA regulations relating to identity theft red flags[8] for institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) of any size.[9] The obligation to comply with FR V is mandatory, except for the consumer opt-out responses, which

[1] See 12 U.S.C. 5515 and footnote 7.

[2] 12 CFR part 1022.

[3] 12 CFR part 222.

[4] The FCRA is one part of the Consumer Credit Protection Act, which also includes the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Debt Collection Practices Act. See 15 U.S.C. 1601 *et seq.*

[5] See 15 U.S.C. 1681.

[6] Appendix B to 12 CFR part 1022; and 12 CFR 1022.20–.27, 1022.40–.43, 1022.70–.75, and 1022.82.

[7] See 15 U.S.C. 1681s(b); 12 U.S.C. 5515.

[8] 12 CFR 222.90–.91.

[9] See 15 U.S.C. 1681m(e), and 1681s(b) and (e).

consumers are required to submit in order obtain a benefit.

The notices, records, and disclosures included in the FR V are not provided to the Federal Reserve, but are maintained at Board-supervised institutions. As such, no issue of confidentiality generally arises under the Freedom of Information Act (FOIA). In the event such notices, records, or disclosures are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process.[10] In addition, certain information (such as direct dispute notices regarding a consumer) may also be withheld under exemption 6 of the FOIA, which protects from disclosure information that ''would constitute a clearly unwarranted invasion of personal privacy.'' [11]

Board of Governors of the Federal Reserve System, February 9, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–03126 Filed 2–11–22; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 1, 2022.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President) P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *James A. Boyers, Elaine Boyers, J. Adam Boyers, Cortney Boyers, Elisabeth Boyers, Zachary K. Marsh, and certain minor children, all of Fairmont, West Virginia*; to join the Boyers Family Control Group, a group acting in concert, to retain voting shares of Heritage Bancshares, Inc., and thereby indirectly retain voting shares of First Exchange Bank, both of White Hall, West Virginia.

B. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Eugene H. Bringol, Jr., and Natalee L. Young-Bringol, both of Beaver, Pennsylvania; Nathan T. Snyder, Pittsburgh, Pennsylvania; Robert H. Bishop, Wexford, Pennsylvania; Brian D. Croftcheck, Rostraver Township, Pennsylvania; Donald A. Croftcheck, and Scott C. Croftcheck, both of Grindstone, Pennsylvania; Jeffrey Donald Kendall, Sewikley, Pennsylvania; and James W. Yankee, Columbia, Missouri*; to become a group acting in concert, to acquire voting shares of Townsend Financial Corporation, and thereby indirectly control Farmers Bank, both of Parsons, Tennessee.

Board of Governors of the Federal Reserve System, February 9, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–03116 Filed 2–11–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 28, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Federal Bank of Wisconsin Employee Stock Ownership Plan, Racine, Wisconsin;* to retain voting shares of FFBW, Inc., Brookfield, Wisconsin, and thereby indirectly retain voting shares of First Federal Bank of Wisconsin, Waukesha, Wisconsin.

Board of Governors of the Federal Reserve System, February 8, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–03011 Filed 2–11–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

Public Meeting: Proposal by U.S. Bancorp To Acquire MUFG Union Bank, National Association and To Merge MUFG Union Bank, National Association With and Into U.S. Bank National Association

AGENCY: Board of Governors of the Federal Reserve System (Board) and Office of the Comptroller of the Currency (OCC), Department of Treasury.

ACTION: Notice of public meeting.

SUMMARY: A virtual public meeting will be held regarding the proposal by U.S.

[10] 5 U.S.C. 552(b)(8).

[11] 5 U.S.C. 552(b)(6).

Bancorp, Minneapolis, Minnesota to acquire MUFG Union Bank, National Association, San Francisco, California, pursuant to the Bank Holding Company Act, and to merge MUFG Union Bank with and into U.S. Bancorp's subsidiary national bank, U.S. Bank National Association, Cincinnati, Ohio, pursuant to the Bank Merger Act. The purpose of the meeting is to collect information related to factors the Board and OCC consider when making determinations under the Bank Holding Company Act and the Bank Merger Act.

DATES: The meeting date is March 8, 2022, from 11:00 a.m. to 7:00 p.m. EST. Members of the public seeking to make oral comments during the virtual meeting must register by 12:00 p.m. EST on March 1, 2022, to be placed on a list of registered commenters and receive specific instructions for participation. Any presentation materials that a member of the public wishes to use during their testimony must also be provided by 12:00 p.m. EST on March 1, 2022. Members of the public seeking to watch the virtual meeting (but not provide oral comments) must register any time prior to 11:59 p.m. EST on March 7, 2022.

FOR FURTHER INFORMATION CONTACT: *Federal Reserve:* Mark Rauzi, Vice President, and Chris Wangen, Assistant Vice President, (612) 204–5087, Supervision, Regulation, and Credit, Federal Reserve Bank of Minneapolis, 90 Hennepin Avenue, Minneapolis, MN 55401, via email at: *ma@mpls.frb.org,* or via facsimile at: 612–204–5114. *OCC:* Jason Almonte, Director for Large Bank Licensing, (202) 253–0829, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219, via email at *jason.almonte@occ.treas.gov.* If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunication relay services.

SUPPLEMENTARY INFORMATION:

I. Background and Public Meeting Notice

On October 6, 2021, U.S. Bank National Association, Cincinnati, Ohio (U.S. Bank), applied to the OCC to merge MUFG Union Bank, National Association, San Francisco, California (MUFG Union Bank) with and into U.S. Bank pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) (Bank Application). On October 7, 2021, the Board received an application from U.S. Bancorp, Minneapolis, Minnesota, to acquire all of the issued and outstanding shares of common stock of MUFG Union Bank, a direct wholly-owned national bank subsidiary of MUFG Americas Holding Corporation, New York, New York, and an indirect subsidiary of Mitsubishi UFJ Financial Group, Inc., Tokyo, Japan, pursuant to the Bank Holding Company Act (12 U.S.C. 1841 e*t seq.*) (Holding Company Application). The Board and OCC (agencies) hereby announce that a public meeting on the applications will be held, as described below.

II. Purpose and Procedures

To protect the health and safety of all participants in light of the ongoing COVID–19 pandemic, the meeting will be held virtually.

The purpose of the public meeting is to collect information relating to the factors that the agencies consider under the applicable statutes in acting on the applications. These factors include the effects of the proposal on the convenience and needs of the communities to be served by the combined organization; the insured depository institutions' performance under the Community Reinvestment Act; competition in the relevant markets; the effects of the proposal on the stability of the U.S. banking or financial system; the financial and managerial resources and future prospects of the companies and banks involved in the proposal; and the effectiveness of the companies and banks in combatting money laundering activities. Witnesses may present testimony and/or written materials to support the proposed transactions, to oppose the proposed transactions, or to provide information without taking a position in support or opposition.

Testimony at the public meeting will be presented virtually to a panel consisting of Presiding Officers and other panel members appointed by the Presiding Officers. The Presiding Officers will have the authority and discretion to ensure that the meeting proceeds in a fair and orderly manner. The rules for taking evidence in an administrative proceeding will not apply to the public meeting. In general, the role of the panel members will be to listen to the oral testimony and consider any written submissions. The panelists may ask questions of those who testify; however, the questions generally will be limited to seeking clarification of statements made. Panel members may question witnesses, but no cross-examination of witnesses will be permitted. The public meeting will be transcribed, and the transcript will be posted on the respective public websites of the Board and the OCC.[1]

Information for Persons Wishing to Testify

All persons wishing to testify at the public meeting must submit a written request to testify no later than 12:00 p.m. EST on March 1, 2022, through the online registration web page at: *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm.* The Board will provide the OCC with a copy of each request to testify and any written presentation materials submitted by the requester.

The online registration web page will collect the following information from persons requesting to testify: (i) A brief statement of the nature of the expected testimony (including whether the testimony will support or oppose the proposed transactions or provide other comments or information); (ii) the name, city and state, telephone number, organization (if applicable), and email address of the person testifying; and (iii) the identification of any special needs, such as translation services, or disabilities requiring assistance. Translators or interpreters will be provided to the extent available if a need for such services is noted in the request to testify.

Any presentation materials that a person testifying wishes to present at the meeting (*e.g.,* a PowerPoint presentation) must be submitted by 12:00 p.m. EST on March 1, 2022, via email to: *ma@mpls.frb.org,* and the subject line of the email should state ''PUBLIC MEETING.'' Copies of testimony may, but need not, be filed with the Presiding Officers via email to *ma@mpls.frb.org* before the meeting begins or within three business days after the date of the meeting, and the subject line of the email should state ''PUBLIC MEETING.'' The Board will provide copies of all presentation materials and written testimony to the OCC.

Persons who wish to testify must be able to access the online meeting platform using a computer, tablet, smart phone, or similar mobile device and have a video camera on their computer or mobile device. Persons who have registered to testify will be contacted by Federal Reserve staff prior to the meeting and provided with specific instructions on participation (*e.g.,* how to connect to the online meeting), as well as an opportunity to attend a

[1] Materials related to the applications are available on the Board's website at *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm,* and the OCC's website at *https://occ.gov/topics/charters-and-licensing/public-comment/business-combination-or-merger-applications-comments.html.*

The transcript of the meeting will be posted to the agencies' respective websites.

technical session on how to connect to audio and video for the meeting.

Information for Persons Watching or Listening to the Meeting Without Testifying

Persons interested in watching the meeting (but not testifying) must register by submitting their name and email address through the online registration web page: *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm,* and will be provided information on accessing the online meeting platform.

Persons who wish to listen to the meeting (but not watch it or testify) need not register online and may access audio of the meeting using a call-in number that will be available on the registration web page on March 7, 2022 at: *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm.* Persons attending via telephone will only be able to listen to the meeting audio, and all phone lines will be placed on mute to minimize disruption. Persons listening to the public meeting via telephone will not be able to provide testimony and will not have the ability to view the speakers or any presentation or other materials during the meeting.

Transcript of the Meeting

The agencies anticipate that a transcript of the meeting, together with any materials presented at the meeting, will be posted on each agency's respective public website. An audio or video recording of the meeting will not be retained by the agencies.

Meeting Procedures

The Presiding Officers will prepare a schedule for persons wishing to testify and establish the order of presentation. To ensure an opportunity for all interested commenters to present their views, the Presiding Officers may limit the time for presentations and may establish other procedures related to the conduct of the public meeting as appropriate. For instance, each person may be permitted up to five minutes to testify. In order to verify the identity of persons scheduled to testify at the virtual public meeting, all individuals will first join a virtual waiting room prior to testifying, where they must present a valid, government-issued photo identification using the video conference feature. The Presiding Officers may extend the end time of the meeting beyond 7:00 p.m. EST, if additional time is needed to accommodate demonstrated public interest.

Reasonable Accommodations

Persons who wish to request reasonable accommodations should submit a request through the online registration web page at: *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm;* or, by submitting an email to: *ma@mpls.frb.org,* and the subject line of the email should state ''PUBLIC MEETING.'' Requests should be made no later than 12:00 p.m. EST on March 1, 2022. Requests submitted after this time may not be possible to accommodate. Requests should include a detailed description of the accommodation needed and a way for Federal Reserve staff to contact the requester if more information is needed regarding the request.

Extension of the Comment Period

The Board is extending the comment period on the Holding Company Application, and the OCC is extending the comment period on the Bank Application, through 5:00 p.m. EST on March 11, 2022.

Written comments regarding the Holding Company Application may be submitted to the Federal Reserve Bank of Minneapolis, Chris P. Wangen, Assistant Vice President, 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291, or electronically to *mpls.src.mergersandacquisitions.smb@mpls.frb.org;* 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. All written comments will be made available on the Board's website at *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm* as submitted, unless modified for technical reasons or to remove personally identifiable information or other confidential information at the commenter's request. Accordingly, written comments will not be edited to remove any confidential, contact or identifying information.

Written comments on the Bank Application may be submitted to Jason Almonte, Director for Large Bank Licensing at *LargeBanks@occ.treas.gov* or at 340 Madison Avenue, Fifth Floor, New York, New York 10173. Written comments will be made available on OCC's website at *https://www.occ.gov/topics/charters-and-licensing/public-comment/business-combination-or-merger-applications-comments.html.* In general, the OCC will publish each comment without change, including any business or personal information, name and address, email addresses, and phone numbers. Comments received, including attachments and other supporting material, are part of the public record and subject to public disclosure. Do not enclose any information in a comment or supporting material that is confidential or inappropriate for public disclosure.

Privacy Note

The Board will make the public record of the Holding Company Application, including all comments received, the materials presented during testimony at the public meeting, and the transcript of the public meeting, available on the Board's public website at *https://www.federalreserve.gov/foia/us-bancorp-mufg-union-bank-application-materials.htm.* The OCC will make the public record of the Bank Application, including all comments received, the materials presented during testimony at the public meeting, and the transcript of the public meeting, available on the OCC's public website at: *https://occ.gov/topics/charters-and-licensing/public-comment/business-combination-or-merger-applications-comments.html.* Persons submitting comments and/or testimony are reminded to include only information that they wish to make available to the public.

Michael J. Hsu,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2022–03073 Filed 2–11–22; 8:45 am]

BILLING CODE 6210–01–P; 4810–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30–Day–22–21HU]

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 HIV Prevention Capacity Development Needs Assessments of Federally funded Health Departments and Community-Based Organizations 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

September 7, 2021 to obtain comments from the public and affected agencies. CDC received two non-substantive comments 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

HIV Prevention Capacity Development Needs Assessments of Federally funded Health Departments and Community-Based Organizations—New—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this data collection is to determine the training and technical assistance (TA) needs of health departments and community-based organizations (CBO) funded by CDC to conduct HIV prevention and surveillance activities. Data will be used to provide the training and TA funded agencies need in a timely and efficient manner by combining the responses and hosting trainings and TA with multiple agency staff at the same time.

Data will be gathered by the CDC through two structured, survey-based assessments hosted on our online training and technical assistance request system. CDC is requesting a three-year approval in order to accommodate the multiple Notifications of Funding Opportunities (NOFO) that inform the U.S. HIV response system at the local and state level.

CDC is requests OMB approval for an estimated 66 annual burden 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)
Community-based Organization Representatives—Adults.	Community-based Organization Needs Assessment.	130	1	15/60
Health Department Representatives—Adults	Health Department Needs Assessment	70	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. 2022–03075 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CK22–006, Clinical and Applied Research Strategies for the Prevention and Control of Fungal Diseases.

Date: April 14, 2022.

Time: 10:00 a.m.–5:00 p.m., EDT.

Place: Teleconference, Centers for Disease Control and Prevention, Atlanta, GA 30329.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329, (404) 718–8833, *ganderson@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–03016 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—CE22–009, Research Grants for Preventing Violence and Violence Related Injury (R01).

Date: May 10–11, 2022.

Time: 8:30 a.m., EDT–5:30 p.m., EDT.

Place: Web Conference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Aisha L. Wilkes, M.P.H., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, Georgia 30341, Telephone (404) 639–6473, *AWilkes@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–03013 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60–Day–22–22CL; Docket No. CDC–2022–0021]

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 Population-based Surveillance of Outcomes, Needs, and Well-being of Children and Adolescents with Congenital Heart Defects (CHD). The purpose of this collection is to provide insight into public health questions that remain for CHD and to develop services and allocate resources to improve long-term health and well-being.

DATES: CDC must receive written comments on or before April 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0021 by either 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

Population-based Surveillance of Outcomes, Needs, and well-being of Children and Adolescents with Congenital Heart Defects—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CHD are the most common type of structural birth defects, affecting approximately one in 110 live-born children. Due to advances in survival, there are approximately one million children with CHD in the United States. With vast declines in mortality from pediatric heart disease over the past 30 years, it is vital to evaluate health,

social, educational, and quality of life outcomes beyond infancy and early childhood. However, existing U.S. population-based data are lacking on these outcomes among those born with CHD and the changes that may occur with time and age. U.S. data is needed to provide insight into the public health questions that remain for this population and to develop services and allocate resources to improve long-term health and well-being.

For this project, we will use data from U.S. state birth defect surveillance systems, or population-based studies derived from them, to identify a population-based sample of children and adolescents 2–17 years of age born with CHD. We will then use state databases and online search engines to find current addresses for those individuals and mail surveys to their caregivers inquiring about the child's cardiac and other healthcare utilization, barriers to healthcare, quality of life, social and educational outcomes, and transition of care from childhood to adulthood, as well as needs and experiences of the caregivers. The information collected from this population-based survey will be used to inform current knowledge, allocate resources, develop services, and, ultimately, improve long-term health of children and adolescents born with CHD.

We estimate receiving completed surveys from 7,667 caregivers of children and adolescents with CHD in the birth defects surveillance systems. To generate sufficient sample size, accounting for non-response, from caregivers up to 17 years after the birth of their child with CHD, we intend to sample 100% of eligible CHD cases identified through select birth defect surveillance systems. The survey takes approximately 20 minutes to complete. Therefore, we estimate the total annual burden to be 2,556 hours. There are no costs to participants 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)
Caregivers of individuals aged 2–17 years with a CHD.	Survey questionnaire	7,667	1	20/60	2,556
Total					2,556

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–03077 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30–Day–22–21IE]

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'' Understanding Health System Approaches to Chronic Pain Management'' 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 Sept. 27, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments 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

Understanding Health System Approaches to Chronic Pain Management—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC requests OMB approval for three years for this new data collection. This study is designed to evaluate the effects of evidence-based guidelines related to chronic pain management and opioid prescribing, including access to medications for opioid use disorder (MOUD), for patients and clinicians in primary care settings among a diverse sample of health systems.

Since 1999, nearly 841,000 people have died from drug overdose in the United States. Over 70% of drug overdose deaths in 2019 involved an opioid. From 1999 to 2019, nearly 247,000 people died in the United States from overdoses involving

prescription opioids, with rates of deaths involving prescription opioids more than quadrupling from 1999 to 2019. In response, a range of clinical practice guidelines, policies, and regulations have been released in recent years to address the opioid overdose epidemic, with the goals of supporting safer opioid prescribing, improving diagnosis and treatment of OUD, and reducing overdose deaths in the United States.

To design this evaluation, we previously conducted and completed a ''Feasibility Assessment of Health Systems'' via surveys to determine the range of policies and guidelines being implemented by health systems, followed by an ''evaluability assessment'' by means of interviews with leaders of nine health systems. For the purposes of this evaluation, ''Chronic pain management policies/guidelines'' refers to policies/guidelines that may include prescribing of opioid medications, nonpharmacologic therapies, and/or non-opioid medications for chronic pain, as well as OUD assessment and treatment.

In early 2020, CDC requested OMB approval for a Feasibility Assessment of Health Systems (''Feedback on the use of the CDC Guideline for Prescribing Opioids for Chronic Pain'') through the ''Generic Clearance for the Collection of Routine Customer Feedback'' (OMB Control No. 0920–1050). This brief eligibility assessment consisting of surveys was sent to approximately 250 health systems to understand the landscape of health systems and the types of guidelines or policies implemented, and what strategies were used to do so. Of 250 health systems contacted, 46 responded and were considered for the following preliminary phase, the evaluability assessment. Among the 46 health systems who completed the feasibility assessment surveys, nine were selected for a more in-depth ''evaluability assessment'' based on several factors identified in the initial feasibility (survey) assessment, as well as other expert knowledge of potential systems.

The purpose of this data collection effort is to: (1) Obtain an enhanced understanding of facilitators and barriers to guideline-concordant management of chronic pain and opioid prescribing (including access to MOUD) at the health system level, in order to improve patient outcomes while maximizing patient safety and to facilitate uptake by clinicians and health systems, (2) describe unintended benefits and consequences to guideline/policy implementation, and (3) identify racial and ethnic disparities in guideline/policy implementation.

This mixed-methods, pre-post evaluation of health systems' implementation of chronic pain management and opioid prescribing policies/guidelines and the resultant outcomes requires both primary data collection (such as surveys, key informant interviews, focus groups, etc.) and secondary data collection (such as administrative, EHR, pharmacy dispensing, prescribing data, etc.) efforts to adequately answer the research questions. While secondary data (QI measures) from health system EHRs will provide longitudinal pre-post measures, primary data is needed to understand the characteristics and mechanisms of practice and patient change that can be attributed to the policies and guidelines.

CDC requests OMB approval for an estimated 577 annual burden hours. There are no direct costs to respondents other than their time to participate in the study.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Patient	Patient Survey	667	1	10/60
Treatment facility staff (Including primary care clinicians, health system leaders, and other system staff and representatives).	Clinician Survey	1,313	1	10/60
	Invitation/Follow up Email	1,980	2	3/60
	System Leaders Interview Guide	17	1	1
	Case Study	30	1	30/60
	Member Checking Sessions	17	1	1

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–03076 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60–Day–22–1283; Docket No. CDC–2022–0019]

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 Monitoring and Reporting for the Overdose Data to Action Co-Operative Agreement. Information collected will provide crucial data for program performance monitoring, budget tracking, and where applicable, program success for programs funded under Overdose Data to Action (CDC–RFA–CE19–1904).

DATES: CDC must receive written comments on or before April 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0019 by either 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

Monitoring and Reporting for the Overdose Data to Action Co-Operative Agreement—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Injury Prevention and Control (NCIPC) seeks OMB approval for a Revision of a previously approved Information Collection Request (ICR) (OMB Control No. 0920–1283, Expiration 01/31/2023) for a one-year period, to continue collecting information from jurisdictions (which include states, Washington DC, U.S. Territories, cities and counties) funded under the Overdose Data to Action (CDC–RFA–CE19–1904) funding opportunity.

Drug overdose deaths in the United States increased by 18% per year from 2014 to 2016. Opioid overdose deaths have increased fivefold from 1999 to 2016, and in 2017, there were more than 47,000 deaths attributed to opioids. While the opioid overdose epidemic worsens in scope and magnitude, it is also becoming more complex. The complex and changing nature of the opioid overdose epidemic highlights the need for an interdisciplinary, comprehensive, and cohesive public health approach.

The purpose of the Overdose Data to Action (CDC–RFA–CE19–1904) notice of funding opportunity (OD2A NOFO), is to support funded jurisdictions in obtaining high quality, complete, and timely data on opioid prescribing and overdoses, and to use those data to inform prevention and response efforts. There are two required components of this award—a surveillance component and a prevention component, with 10 strategies in the funding opportunity across both components. The intent is to ensure that funded jurisdictions are well equipped to do rigorous work under both components, and to ensure that these components are linked and implemented as part of a system.

This ICR will focus on three tools that funded jurisdictions will be required to use to assess performance as well as measure effectiveness: The Activity Progress Report, the Evaluation and Performance Measuring Plan, and the Organizational Capacity Assessment Tool. These tools support the overall OD2A NOFO (all strategies above). There is an overall reduction in burden of 880 burden hours from the previously approved request.

A total of 79 jurisdictions were eligible to receive awards under this funding opportunity, and 67 jurisdictions submitted applications, of which 66 were funded. Each funded jurisdiction will be required to report the four elements of this ICR. Reporting is based on both web-based tools and Word templates. This information is being collected to provide crucial data to CDC for program monitoring and budget tracking, to improve timely CDC-recipient communications, and to inform technical assistance and guidance documents produced by CDC to support program implementation among funded jurisdictions. The information feedback loop created by these information collection tools is designed to help jurisdictions decrease fatal and nonfatal overdoses. It will also provide CDC with the capacity to respond in a timely manner to requests for information about the program from the Department of Health and Human Services (HHS), the White House, Congress, and other sources.

CDC requests approval for an estimated 462 annual burden hours. There is no cost 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)
Overdose Data to Action funded jurisdictions (State, territories, counties and cities) and their Designated Delegates.	Evaluation and Performance Measuring Plan Template —Annual reporting.	66	1	4	264
	Organizational Capacity Assessment—Annual Reporting.	66	1	1	66
	Activity Progress Report Tool—Annual Reporting.	66	1	2	132
Total					462

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–03081 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the BSC, NIOSH. The BSC NIOSH consists of 15 experts in fields associated with occupational safety and health, such as occupational medicine, occupational nursing, industrial hygiene, occupational safety, engineering, toxicology, chemistry, safety and health education, ergonomics, epidemiology, biostatistics, psychology, wellness, research translation, and evaluation.

DATES: Nominations for membership on the BSC, NIOSH must be received no later than April 15, 2022. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to NIOSH Docket 278, c/o Pauline Benjamin, Committee Management Specialist, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS V–24–4, Atlanta, Georgia 30329–4027, or emailed (recommended) to *nioshdocket@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: Emily J.K. Novicki, M.A., M.P.H., NIOSH, CDC, 1600 Clifton Road NE, MS V24–4, Atlanta, GA, 30329–4027, Telephone: (404) 498–2581, or email at *ENovicki@cdc.gov.*

SUPPLEMENTARY INFORMATION: Nominations are being sought for indviduals who have the expertise and qualifications necessary to contribute to the accomplishments of the Board's objectives. Nominees will be selected based on expertise in the fields associated with occupational safety and health, such as occupational medicine, occupational nursing, industrial hygiene, occupational safety, engineering, toxicology, chemistry, safety and health education, ergonomics, epidemiology, biostatistics, psychology, wellness, research translation, and evaluation. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of NIOSH BSC objectives *https://www.cdc.gov/niosh/bsc/default.html.*

The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for BSC, NIOSH membership each year and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in January 2023, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. SGE nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government.

Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address)
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–03037 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Healthcare Infection Control Practices Advisory Committee (HICPAC). This virtual meeting is open to the public, limited only by audio and web conference lines (300 audio and web conference lines are available). Registration is required. To register for this web conference, please go to: *www.cdc.gov/hicpac.* All registered participants will receive the meeting link and instructions shortly before the meeting.

DATES: The meeting will be held on March 24, 2022, from 12:00 p.m. to 2:30 p.m., EDT.

ADDRESSES: Please click the link below to join the webinar: *https://cdc.zoomgov.com/j/1609325835?pwd=M2Nqa0VMSExYS1RCUjRKeTVvTzFnZz09.*

Meeting ID: 160 932 5835.
Passcode: b#B0i6q.
Dial-in Lines:

+1–669–254–5252 (San Jose)
+1–646–828–7666 (New York)

Meeting ID: 160 932 5835.
Phone Passcode: 45841052.

FOR FURTHER INFORMATION CONTACT: Sydnee Byrd, M.P.A., HICPAC, Division of Healthcare Quality Promotion,

National Center for Emerging and Zoonotic Infectious Diseases, CDC, 1600 Clifton Road NE, Mailstop H16–3, Atlanta, Georgia 30329–4027, Telephone: (404) 718–8039; Email: *HICPAC@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Committee is charged with providing advice and guidance to the Director, Division of Healthcare Quality Promotion (DHQP), the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), the Director, CDC, the Secretary, Health and Human Services regarding (1) the practice of healthcare infection prevention and control; (2) strategies for surveillance, prevention, and control of infections, antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of CDC guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters to be Considered: The agenda will include the following updates: The Healthcare Personnel Guideline Workgroup; the Isolation Precautions Guideline Workgroup; and the Neonatal Intensive Care Unit Workgroup. Agenda items are subject to change as priorities dictate.

Procedures for Public Comment: Time will be available for public comment. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed. Please note that the public comment period may end before the time indicated, following the last call for comments.

Procedures for Written Comment: The public may submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed above. The deadline for receipt of written public comment is March 18, 2022. All requests must contain the name, address, and organizational affiliation of the speaker, as well as the topic being addressed. Written comments should not exceed one single-spaced typed page in length. Written comments received in advance of the meeting will be included in the official record of the meeting.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–03038 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–0728; Docket No. CDC–2022–0020]

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 Notifiable Diseases Surveillance System (NNDSS). The purpose of this data collection is to provide the official source of statistics in the United States for nationally notifiable conditions.

DATES: CDC must receive written comments on or before April 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0020 by either 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 Notifiable Diseases Surveillance System (NNDSS) (OMB Control No. 0920–0728, Exp. 3/31/2024)—Revision—Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Public Health Services Act (42 U.S.C. 241) authorizes CDC to disseminate nationally notifiable condition information. The National

Notifiable Diseases Surveillance System (NNDSS) is based on data collected at the state, territorial and local levels because of legislation and regulations in those jurisdictions that require health care providers, medical laboratories, and other entities to submit health-related data on reportable conditions to public health departments. These reportable conditions, which include infectious and non-infectious diseases, vary by jurisdiction depending upon each jurisdiction's health priorities and needs. Each year, the Council of State and Territorial Epidemiologists (CSTE), supported by CDC, determines which reportable conditions should be designated nationally notifiable or under standardized surveillance.

CDC requests a three-year approval for a Revision for the NNDSS (OMB Control No. 0920–0728, Expiration Date 03/31/2024).

This Revision includes requests for approval to: (1) Receive case notification data for Alpha-gal syndrome (AGS), a new condition under standardized surveillance (CSS); (2) receive Sexual Orientation and Gender Identity (SOGI) and Birth Sex data elements (with United States Core Data for Interoperability (USCDI) value sets) for sexually transmitted diseases (STD) and Hepatitis; (3) receive an extension of three years to continue to receive the current SOGI data elements for STD; and (4) receive new disease-specific data elements for Hepatitis and AGS.

The NNDSS currently facilitates the submission and aggregation of case notification data voluntarily submitted to CDC from 60 jurisdictions: Public health departments in every U.S. state, New York City, Washington DC, five U.S. territories (American Samoa, the Commonwealth of Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands), and three freely associated states (Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau). This information is shared across jurisdictional boundaries and both surveillance and prevention and control activities are coordinated at regional and national levels.

Approximately 90% of case notifications are encrypted and submitted to NNDSS electronically from already existing databases by automated electronic messages. When automated transmission is not possible, case notifications are faxed, emailed, uploaded to a secure network or entered into a secure website. All case notifications that are faxed or emailed are done so in the form of an aggregate weekly or annual report, not individual cases. These different mechanisms used to send case notifications to CDC vary by the jurisdiction and the disease or condition. Jurisdictions remove most personally identifiable information (PII) before data are submitted to CDC, but some data elements (*e.g.,* date of birth, date of diagnosis, county of residence) could potentially be combined with other information to identify individuals. Private information is not disclosed unless otherwise compelled by law. All data are treated in a secure manner consistent with the technical, administrative, and operational controls required by the Federal Information Security Management Act of 2002 (FISMA) and the 2010 National Institute of Standards and Technology (NIST) Recommended Security Controls for Federal Information Systems and Organizations. Weekly tables of nationally notifiable diseases are available through CDC WONDER and *data.cdc.gov.* Annual summaries of finalized nationally notifiable disease data are published on CDC WONDER and *data.cdc.gov* and disease-specific data are published by individual CDC programs.

The burden estimates include the number of hours that the public health department uses to process and send case notification data from their jurisdiction to CDC. Specifically, the burden estimates include separate burden hours incurred for automated and non-automated transmissions, separate weekly burden hours incurred for modernizing surveillance systems as part of NNDSS Modernization Initiative (NMI) implementation, separate burden hours incurred for annual data reconciliation and submission, and separate one-time burden hours incurred for the addition of new diseases and data elements. The burden estimates for the one-time burden for reporting jurisdictions are for the addition of case notification data for Alpha-gal syndrome (AGS), a new condition under standardized surveillance (CSS); Sexual Orientation and Gender Identity (SOGI) and Birth Sex data elements for sexually transmitted diseases (STD) and Hepatitis; and new disease-specific data elements for Hepatitis and AGS. The estimated annual burden for the 257 respondents is 18,294 hours, which has decreased from the previously-approved 18,954 hours in the last Revision.

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)
States	Weekly (Automated)	50	52	20/60	867
States	Weekly (Non-automated)	10	52	2	1,040
States	Weekly (NMI Implementation)	50	52	4	10,400
States	Annual	50	1	75	3,750
States	One-time Addition of Diseases and Data Elements.	50	1	1	50
Territories	Weekly (Automated)	5	52	20/60	87
Territories	Weekly, Quarterly (Non-automated)	5	56	20/60	93
Territories	Weekly (NMI Implementation)	5	52	4	1,040
Territories	Annual	5	1	5	25
Territories	One-time Addition of Diseases and Data Elements.	5	1	1	5
Freely Associated States	Weekly (Automated)	3	52	20/60	52
Freely Associated States	Weekly, Quarterly (Non-automated)	3	56	20/60	56
Freely Associated States	Annual	3	1	5	15
Freely Associated States	One-time Addition of Diseases and Data Elements.	3	1	1	3
Cities	Weekly (Automated)	2	52	20/60	35
Cities	Weekly (Non-automated)	2	52	2	208
Cities	Weekly (NMI Implementation)	2	52	4	416

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Cities	Annual	2	1	75	150
Cities	One-time Addition of Diseases and Data Elements.	2	1	1	2
Total					18,294

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–03078 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–2022–1050; Docket No. CDC–2022–0025]

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 CDC/ATSDR Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. The information collection activities provide a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the federal government's commitment to improving service delivery.

DATES: CDC must receive written comments on or before April 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0025 by either 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

CDC/ATSDR Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control No. 0920–1050, Exp. 5/31/2022)—Extension—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The information collection activities associated with this Generic clearance provide a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the federal government's commitment to improving service delivery. By qualitative feedback, information will be collected that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

Feedback from respondents will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between CDC and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness,

appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on CDC's services will be unavailable.

CDC will only submit an individual collection for approval under this Generic clearance mechanism if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the federal government;
- The collection is non-controversial and does not raise issues of concern to other federal agencies;
- The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, the agency must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information (the collection will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study).

Feedback collected under this CDC Generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of Generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other Generic mechanisms that are designed to yield quantitative results.

As a general matter, individual information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Based on the number of burden hours used during the previous approval period and the number of respondents involved in this and other expiring collections, CDC requests OMB approval for an estimated 22,250 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average hours per response	Total response burden (hours)
Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.	In-person surveys, Online surveys, Telephone surveys, In-person observation/testing, Interviews.	10,000	1	30/60	5,000
	Focus groups	1,000	1	2	2,000
	Customer comment cards, Interactive Voice surveys.	61,000	1	15/60	15,250
Total					22,250

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–03079 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Advisory Council for the Elimination of Tuberculosis

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the Advisory Council for the Elimination of Tuberculosis (ACET). The ACET consists of 10 experts including the Chair in fields associated with public health, epidemiology, immunology, infectious disease, pulmonary disease, pediatrics, tuberculosis, microbiology, and preventive health care delivery. ACET provides advice and recommendations regarding the elimination of tuberculosis (TB) to the Secretary, HHS; the Assistant Secretary for Health, HHS; and the CDC Director. ACET (a) makes recommendations on policies, strategies, objectives, and priorities; (b) addresses development and application of new technologies; (c) provides guidance and review of CDC's TB prevention research portfolio and program priorities; and (d) reviews the extent to which progress has been made toward eliminating TB.

DATES: Nominations for membership on the ACET must be received no later than May 31, 2022. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to CDC, 1600 Clifton Road NE, Mailstop US8–6, Atlanta, Georgia 30329–4027; or emailed (recommended) to *nchhstppolicy@cdc.gov;* or faxed to (404) 639–8600.

FOR FURTHER INFORMATION CONTACT: Marah Condit, MS, Committee

Management Lead, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, CDC, 1600 Clifton Road NE, Mailstop US8–6, Atlanta, Georgia 30329–4027, Telephone: (404) 639–3423; Email: *MCondit@cdc.gov.*

SUPPLEMENTARY INFORMATION: Nominations are being sought for persons who have expertise and qualifications necessary to contribute to the accomplishments of the council's objectives. Nominees will be selected on the basis of their expertise in public health, epidemiology, immunology, infectious diseases, pulmonary disease, pediatrics, tuberculosis, microbiology, or preventive health care delivery. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of ACET objectives.

The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for ACET membership each year and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in July 2023, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. SGE nominees must be U.S. citizens and cannot be full-time employees of the U.S. Government. Candidates should submit the following items to be considered:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, and email address).
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*i.e.,* CDC, NIH, FDA, etc.).

Nominations may be submitted by the candidate himself or herself or by a person or organization recommending the candidate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–03036 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–1132; Docket No. CDC–2022–0023]

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 Performance Progress and Monitoring Report (PPMR). The PPMR is designed to allow CDC to collect information related to CDC Awardee's budgets, strategies and activities, and the process and outcome performance measures outlined by the cooperative agreement programs, in order to evaluate partnerships and the work that is done on behalf of CDC.

DATES: CDC must receive written comments on or before April 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0023 by either 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

Performance Progress and Monitoring Report (PPMR) (OMB Control No. 0920–1132, Exp. 10/31/2022)—Extension—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Each year, approximately 80% of the CDC's budget is distributed via contracts, grants and cooperative agreements, from the Office of Financial Resources (OFR) to partners (Awardees) throughout the world in an effort to promote health, prevent disease, injury and disability and prepare for new health threats. OFR is responsible for the stewardship of these funds while providing excellent, professional services to our partners and stakeholders.

Currently, CDC uses the Performance Progress and Monitoring Report (PPMR, OMB Control No. 0920–1132, Expiration: 10/31/2022), a set of progress reporting forms for Non-Research awards to collect information semi-annually from Awardees regarding the progress made over specified time periods on CDC funded projects. The PPMR was originally modified from SF–PPR (OMB Control No. 0970–0406, Expiration: 10/31/2015), a similar progress report that was owned by the Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS). The PPMR was created by CDC to provide an agency-wide collection tool that would be able to obtain data on the progress of CDC Awardees for the purposes of evaluation, and to bring the Awardee reporting procedure into compliance with the Paperwork Reduction Act (PRA).

The information collected enables the accurate, reliable, uniform, and timely submission to CDC of each Awardee's work plans and progress reports, including strategies, activities and performance measures. The information collected by the PPMR is designed to align with, and support the goals outlined for each of the CDC Awardees. Collection and reporting of the information will occur in an efficient, standardized, and user-friendly manner that will generate a variety of routine and customizable reports. The PPMR will allow each Awardee to summarize activities and progress towards meeting performance measures and goals over a specified time period specific to each award. CDC will also have the capacity to generate reports that describe activities across multiple Awardees. In addition, CDC will use the information collection to respond to inquiries from HHS, Congress and other stakeholder inquiries about program activities and their impact. The current submission process allows Awardees to submit a completed PDF version of the PPMR by uploading it to *www.grants.gov,* or directly to the programs at CDC that will be performing the evaluation.

This Extension request is being submitted to allow CDC to continue collection of this valuable information from Awardees for an additional three years. There are no anticipated changes to the information collection instruments or associated burden at this time. CDC requests OMB approval for an estimated 13,014 annual burden hours. There is no cost 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)	Total burden (in hours)
CDC Award Recipients	Performance Progress and Monitoring Report (PPMR—Att. A–F).	5,200	1	2	10,400
CDC Award Recipients	Performance Progress and Monitoring Report (PPMR—Att. G).	1,632	1	5/60	136
NHSS Award Recipients	Performance Progress and Monitoring Report (PPMR—Att. A–F).	60	1	41	2,478
Total					13,014

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–03080 Filed 2–11–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0083]

Food and Drug Administration Hiring and Retention Final Assessment; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is holding a virtual meeting entitled ''FDA Hiring and Retention Final Assessment'' and an opportunity for public comment. The topic to be discussed is the FDA Hiring and Retention Final Assessment, which was an independent assessment performed by Booz Allen Hamilton, published on December 10, 2021. This public meeting will take place virtually due to extenuating circumstances and will be held by webcast only.

DATES: The public meeting will be held on March 15, 2022, from 9 a.m. to 12 noon Eastern Time. Submit either electronic or written comments on this public meeting by May 16, 2022. See the

SUPPLEMENTARY INFORMATION section for registration date and information.

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 by May 16, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 16, 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–2022–N–0083 for ''FDA Hiring and Retention Final Assessment; Public Meeting; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patricia Stewart, Office of Operations, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–4735, *patricia.stewart@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is holding a public meeting to share high-level findings from a recently completed final assessment of FDA's hiring and retention processes, conducted by a qualified, independent contractor with expertise in assessing transformation of Human Resource operations. We recognize that the critical work to protect public health is made possible in part by the Agency's ability to attract and retain a talented, diverse, and dedicated workforce. As FDA continues to fulfill its strategic mission, it is imperative that we identify and leverage the talent, skills, and diversity within—and outside of—the Agency.

These priorities are reflected in FDA's plan to enhance its hiring and retention programs; recruit qualified candidates with diverse backgrounds, experiences, and talents; provide internal development opportunities; and further enhance the Agency's ability to nurture a supportive and fair work environment. The public meeting will provide an update on FDA's progress toward the Prescription Drug User Fee Act (PDUFA VI) and the Biosimilar User Fee Amendments Act of 2017 (BsUFA II) hiring and retention commitments and solicit input on actions regarding the hiring process. To view the evaluation assessment report, please visit *https://www.fda.gov/media/154873/download.*

This public meeting is intended to meet performance commitments included in PDUFA VI and BsUFA II. These user fee programs were reauthorized, for fiscal years 2018—2022, as part of the FDA Reauthorization Act of 2017 (Pub. L. 115–52) signed by the President on August 18, 2017. The complete set of performance goals for each program is available at:

- *PDUFA VI program: https://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM511438.pdf.*
- *BsUFA II program: https://www.fda.gov/downloads/forindustry/userfees/biosimilaruserfeeactbsufa/ucm521121.pdf.*

II. Topics for Discussion at the Public Meeting

This public meeting will provide FDA the opportunity to update interested public stakeholders on topics related to the FDA hiring and retention programs. Booz Allen Hamilton will present their findings and recommendations that are outlined in the Hiring and Retention Final Assessment Report and we will provide an update on the Agency's progress in addressing the findings from the independent third-party evaluation that was published December 10, 2021. To view the evaluation assessment

report, please visit *https://www.fda.gov/media/154873/download.*

III. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following website: *https://pdufa-hr-assessment.eventbrite.com.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by March 14, 2022, 11:59 p.m. Eastern Time. We will let registrants know if registration closes before the day of the public meeting.

If you need special accommodations due to a disability, please contact Patricia Stewart (see **FOR FURTHER INFORMATION CONTACT**) no later than March 8, 2022.

Requests for Oral Presentations: During online registration, you may indicate if you wish to present during a public comment session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by March 11, 2022. All requests to make oral presentations must be received by March 8, 2022, 11:59 p.m. Eastern Time. If selected for presentation, any presentation materials must be emailed to Patricia Stewart (see **FOR FURTHER INFORMATION CONTACT**) no later than March 11, 2022. No commercial or promotional material will be permitted to be presented at the public meeting.

Streaming Webcast of the public meeting: The webcast for this public meeting is accessible at *https://pdufa-hr-assessment.eventbrite.com.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**).

Dated: February 9, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–03097 Filed 2–11–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0304]

Brian Michael Parks: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Brian Michael Parks for a period of 5 years from importing or offering for import any article of food (including dietary supplements) or drug into the United States. FDA bases this order on a finding that Mr. Parks was convicted of one felony count under Federal law for distribution of an unapproved new drug with the intent to defraud and mislead. The factual basis supporting Mr. Parks' conviction, as described below, is conduct relating to the importation into the United States of any food and of any drug or controlled substance. Mr. Parks was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of November 17, 2021 (30 days after receipt of the notice), Mr. Parks had not responded. Mr. Parks' failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable February 14, 2022.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food. Section 306(b)(1)(D) of the FD&C Act permits debarment of an individual from importing or offering for import any drug into the United States if the FDA finds, as required by section 306(b)(3)(C) of the FD&C Act that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On February 16, 2021, Mr. Parks was convicted, as defined in section 306(l)(1) of the FD&C Act in the U.S. District Court for the Western District of Virginia, after his plea of guilty, when the court entered judgment against him for the offense of distribution of an unapproved new drug with the intent to defraud and mislead, in violation of sections 301(d) and 303(a)(2) of the FD&C Act 21 U.S.C. 331(d) and 333(a)(2). The FDA's finding that debarment is appropriate is based on the felony conviction referenced herein. The factual basis for this conviction is as follows:

As contained in the information in Mr. Parks' case, filed on November 23, 2020, he was the owner and operator of MedFitRX Inc., later known as MedFit Sarmacuticals Inc. (collectively referred to as MedFitRX herein), a purported sport supplement company based in North Carolina. MedFitRX imported Selective Androgen Receptor Modulators (SARMs) in order to use them in MedFitRx products. SARMs are synthetic chemicals designed to mimic the effects of testosterone and other anabolic steroids. From approximately March 2016 to September 2019, Mr. Parks imported SARMs and other drug active ingredients from China on multiple occasions. The drug active ingredients he imported included MK–677, S–4, MK–2866, GW–501516, LGD–4033, and RAD140, among others. In addition, on or about May 17, 2018, Mr. Parks sold two MedFitRX products to undercover FDA Office of Criminal Investigation agents posing as consumers. The first product Mr. Parks sold to these undercover agents, Lucky SARMS Magical AF, contained the drugs S–23 and SR9009, which he had caused to be imported into the United States. The second product, Estrovert,

contained the anabolic steroid Methyldienolone, a controlled substance prohibited under the Designer Steroid Act, 21 U.S.C. 802(41), which Mr. Parks also caused to be imported into the United States. Mr. Parks worked with others to conceal the importation of these and other unapproved drugs as they were disguised and misdeclared as articles of food, specifically ''biscuit mix powder,'' ''corn powder,'' ''grain mix powder,'' ''bread mix powder,'' and ''milk tea powder.'' Mr. Parks then included these drug active ingredients in MedFitRX products, which were unapproved drugs that he introduced and delivered for introduction into interstate commerce. Mr. Parks knowingly marketed these MedFitRX products as ''dietary supplements'' and ''sports supplements'' to create the impression they were safe and legal to use, and otherwise intentionally failed to include certain drug active ingredients on the product labels.

As a result of this conviction, FDA sent Mr. Parks, by certified mail, on October 12, 2021, a notice proposing to debar him for a 5-year period from importing or offering for import any article of food or drug into the United States. The proposal was based on a finding under section 306(b)(1)(C) and (b)(3)(C) of the FD&C Act that Mr. Parks' felony conviction of distribution of an unapproved new drug with the intent to defraud and mislead constitutes conduct relating to the importation into the United States of an article of food and any drug or controlled substance because Mr. Parks illegally imported unapproved drugs into the United States, working with others to disguise and misdeclare them as articles of food, and then distributed those unapproved drugs to consumers in the United States, marketing them as ''dietary supplements'' and ''sports supplements.'' In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Parks' offense, and concluded that the felony offense warranted the imposition of a 5-year period of debarment.

The proposal informed Mr. Parks of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Parks received the proposal and notice of opportunity for a hearing on October 18, 2021. Mr. Parks failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(1)(C) and (b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Brian Michael Parks has been convicted of a felony under Federal law for conduct relating to the importation into the United States of an article of food and of a drug or controlled substance, and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Parks is debarred for a period of 5 years from importing or offering for import articles of food or any drug or controlled substances into the United States, applicable (see **DATES**). Pursuant to section 301(cc) of the FD&C Act, the importing or offering for import into the United States of an article of food or of any drug or controlled substance by, with the assistance of, or at the direction of Mr. Parks is a prohibited act.

Any application by Mr. Parks for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2021–N–0304 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: February 8, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–03098 Filed 2–11–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Infant and Maternal Mortality (Formerly the Advisory Committee on Infant Mortality)

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Infant and Maternal Mortality (ACIMM or Committee) has scheduled a public meeting. Information about ACIMM and the agenda for this meeting can be found on the ACIMM website at *https://www.hrsa.gov/advisory-committees/infant-mortality/index.html.*

DATES: March 15, 2022, 12:00 p.m. to 4:00 p.m. Eastern Time and March 16, 2022, 12:00 p.m. to 4:00 p.m. Eastern Time.

ADDRESSES: This meeting will be held virtually via webinar. *The webinar link and log-in information will be available at the ACIMM website before the meeting: https://www.hrsa.gov/advisory-committees/infant-mortality/index.html.*

FOR FURTHER INFORMATION CONTACT: Anne Leitch, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–1321; or *SACIM@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACIMM is authorized by section 222 of the Public Health Service Act (42 U.S.C. 217a), as amended. The Committee is governed by provisions of Public Law 92–463, as amended, (5 U.S.C. App. 2), which sets forth standards for the formation and use of Advisory Committees.

The ACIMM advises the Secretary of Health and Human Services (Secretary) on department activities, partnerships, policies, and programs directed at reducing infant mortality, maternal mortality and severe maternal morbidity, and improving the health status of infants and women before, during, and after pregnancy. The Committee provides advice on how to coordinate federal, state, local, tribal, and territorial governmental efforts designed to improve infant mortality, related adverse birth outcomes, and maternal health, as well as influence similar efforts in the private and voluntary sectors. The Committee provides guidance and recommendations on the policies, programs, and resources required to address the disparities and inequities in infant mortality, related adverse birth outcomes and maternal health outcomes, including maternal mortality and severe maternal morbidity. With its focus on underlying causes of the disparities and inequities seen in birth outcomes for women and infants, the Committee advises the Secretary on the health, social, economic, and environmental factors contributing to the inequities and proposes structural, policy, and/or systems level changes.

The agenda for the March 15–16, 2022, meeting is being finalized and may include the following topics: Federal program updates; COVID–19 updates; race-concordant care, health of indigenous mothers and babies; and, the impact of violence on infant and maternal mortality. Agenda items are subject to change as priorities dictate. Refer to the ACIMM website listed above for any updated information concerning the meeting.

Members of the public will have the opportunity to provide written or oral comments. Requests to submit a written statement or make oral comments to ACIMM should be sent to Anne Leitch using the email address above at least 3 business days prior to the meeting. Public participants may submit written statements in advance of the scheduled meeting by emailing *SACIM@hrsa.gov.* Oral comments will be honored in the order they are requested and may be limited as time allows.

Individuals who plan to attend and need special assistance or some reasonable accommodation should notify Anne Leitch at the contact information listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–03027 Filed 2–11–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Health Security Strategy

AGENCY: Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: The Office of the Assistant Secretary for Preparedness and Response (ASPR), within the U.S. Department of Health and Human Services (HHS), is soliciting public comment regarding national health security threats, challenges, and promising practices to help inform the development of the 2023–2026 National Health Security Strategy (NHSS). Since 2006, Congress has required the Secretary of HHS to develop and submit a 4-year NHSS and implementation plan that describe ''potential emergency health security threats and identify the process to be prepared to identify and respond to such threats.'' The quadrennial NHSS is a key U.S. Government vehicle for advancing public health and medical emergency capabilities, and serves as a tool to address priority threats, measure progress, identify gaps, and focus action to implement national health security capabilities.

DATES: Comments must be received by March 11, 2022.

ADDRESSES: Comments must be submitted electronically via email to the following email address: *NHSS@hhs.gov.*

Instructions: Emails to *NHSS@hhs.gov* in response to this announcement should include '2023–2026 NHSS comments' in the subject line. Responses to the Request for Information may be placed in the body of the email or in an attachment to the email using a standard document format.

Request for Information: HHS/ASPR is preparing to draft the 2023–2026 NHSS. To help inform this strategy, HHS/ASPR is soliciting public comment regarding health security threats, challenges, and promising practices that may warrant being addressed in the 2023–2026 NHSS. We invite your response to the following questions. Please note that you are not limited to the questions below and we welcome additional feedback.

- What are the most critical national health security threats and public health and medical preparedness, response, and recovery challenges that warrant increased attention over the next five years?

- What medium-term and long-term (*i.e.,* over next five years) actions should be taken to mitigate these challenges at the federal government and/or state, local, tribal, and territorial level?

- What public health and medical preparedness, response, and recovery opportunities or promising practices should be capitalized on over the next five years?

Disclaimer and Important Notes: This notice is intended for planning purposes and does not constitute a formal agreement that information from public responses will be included in the 2023–2026 NHSS.

FOR FURTHER INFORMATION CONTACT: Darrin Donato, Chief, Domestic Policy Branch, Division of Policy, Office of Strategy, Policy, Planning, and Requirements, ASPR, HHS, Washington, DC, *NHSS@hhs.gov.*

Dawn O'Connell,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2022–03046 Filed 2–11–22; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel; Small Business: Biomedical Sensing, Measurement and Instrumentation Study Section, March 10–11, 2022, 9:30 a.m. to 7:00 p.m., which was published in the **Federal Register** on February 08, 2022, 87 FR 7194, FR DOC #2022–02598.

This meeting is being amended to change the Contact Person from Yuanna Cheng to James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD. The meeting dates, times, and meeting location remain the same. The meeting is closed to the public.

Dated: February 8, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–03054 Filed 2–11–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Council of Research Advocates.

The meeting will be held as a virtual meeting and is 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 meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

Name of Committee: National Cancer Institute Council of Research Advocates.

Date: March 9, 2022.

Time: 12:00 p.m. to 4:15 p.m.

Agenda: Welcome and Chairman's Remarks, NCI Updates, Legislative Update, and Director's Update.

Place: National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Amy Williams, NCI, Office of Advocacy Relations, National Cancer Institute, NIH, 31 Center Drive, Building 31, Room 10A28, Bethesda, MD 20892, (301) 496–9723, *williaam@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.

Information is also available on the Institute's/Center's home page: NCRA: *http://deainfo.nci.nih.gov/advisory/ncra/ncra.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 9, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–03091 Filed 2–11–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; High impact, Interdisciplinary Science in NIDDK Research Areas (RC2 Clinical Trial Optional): Celiac Disease.

Date: March 25, 2022.

Time: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIDDK-Democracy 2, DEM 2, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 8, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–03055 Filed 2–11–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; International Research Fellowship Award Program of the National Institute on Drug Abuse (NIDA)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection via application forms, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed collections 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. Lindsey Friend, Director, Research Training Program Officer, NIDA International Program, National Institute on Drug Abuse, National Institutes of Health, 3WFN MSC 6024, 301 North Stonestreet Avenue, Bethesda, Maryland 20892 or call non-toll-free number (301) 402–1428 or Email your request, including your address to: *lindsey.friend@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: International Research Fellowship Award Program of the National Institute on Drug Abuse (NIDA), 0925–0733, expiration date 03/31/2022 EXTENSION, National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH).

Need and Use of Information Collection: These programs offer grants and traineeships necessary for growing the biomedical researcher workforce, and the diversity in this workforce. The application forms will collect information of applicants for selecting those that would benefit most effectively from the programs. NIDA is requesting approval from OMB for application forms to be used by these programs that will recruit pre-college through post-doctoral underrepresented individuals and individuals of special populations into the research programs of the Institute for research training and research development, for forging mentor/mentee relationships and networking between newly funded underrepresented researchers and experienced investigators funded by NIDA; and for a fellowship program to train new researchers, and support experienced researchers of other nations, in research to advance the biomedical and behavioral science of drug abuse and addiction while fostering multinational research in this

disease area. The application forms will be web-based.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total annualized burden hours are 33.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
A. Application	Applicant Scientists	25	1	1	25
B. Mentor Information and Agreement.	Scientists	25	1	20/60	8
Totals			50		33

Dated: February 9, 2022.

Lanette A. Palmquist,

Project Clearance Liaison, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2022–03089 Filed 2–11–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Respiratory Sciences.

Date: March 10, 2022.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–20–117: Maximizing Investigators Research Award (MIRA) for Early Stage Investigators (R35—Clinical Trial Optional).

Date: March 14–15, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Center for Scientific Review, 6107 Rockledge Drive, Bethesda, MD 20892, (301) 402–8559, *jimok.kim@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Services Organization, Delivery, Quality and Effectiveness.

Date: March 15–16, 2022.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Catherine Hadeler Maulsby, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1266, *maulsbych@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Immune Responses and Vaccines to Microbial Infections.

Date: March 16–17, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging.

Date: March 17–18, 2022.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Krystyna H. Szymczyk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4198, *szymczykk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–20–117: Maximizing Investigators' Research Award (MIRA) for Early Stage Investigators (R35—Clinical Trial Optional).

Date: March 21–22, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 710B, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 8, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–03053 Filed 2–11–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Understanding Oral Human Papillomavirus (HPV) Infection, Acquisition, and Persistence in People Living With HIV.

Date: March 10, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas John O'Farrell, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Bethesda, MD 20892, (301) 584–4859, *tom.ofarrell@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Feasibility Studies That Explore Healthy and Diseased TMJ Using Single Cell Multi-Omic Analyses.

Date: March 11, 2022.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aiwu Cheng, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Bethesda, MD 20892, *Aiwu.cheng@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 9, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–03090 Filed 2–11–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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.

Project: Harm Reduction Grant Program Target Setting and Quarterly Aggregate Reporting Instrument—(OMB No. 0930–XXXX)

SAMHSA is requesting approval for its Harm Reduction Grant Program Annual Target Setting and Aggregate Quarterly Reporting Instrument. In developing the instrument, we sought to elicit programmatic information that demonstrates impact at the program level aligned with the Notice of Funding Opportunity. In this way, data from the instrument can be used to assess resource allocation and to delineate who we serve, how we serve them, and program impacts. The tool reflects SAMHSA's desire to elicit pertinent program level data that can be used to not only guide future programs and practice, but to also respond to stakeholder, congressional and agency enquiries.

The information collected from these forms is to be entered and stored in SAMHSA's Performance Accountability and Reporting System, which is a real-time, performance management system that captures information on the substance abuse treatment and mental health services delivered in the United States. Approval of this information collection will allow SAMHSA to continue to meet GPRA reporting requirements that quantify the effects and accomplishments of its discretionary grant programs, which are consistent with OMB guidance.

SAMHSA and its Centers will use the data for annual reporting required by the Government Performance and Results Act Modernization Act of 2010 (GPRMA). GPRMA requires that SAMHSA's fiscal year report include actual results of performance monitoring for the three preceding fiscal years. The additional information collected through this process will allow SAMHSA to (1) report results of these performance outcomes; (2) maintain consistency with SAMHSA-specific performance domains, and (3) assess the accountability and performance of its discretionary and formula grant programs.

TABLE 1—ESTIMATES OF ANNUALIZED HOUR BURDEN

SAMHSA tool	Number of respondents	Responses per respondent	Total number of responses	Burden hours per response	Total burden hours	Hourly wage [1]	Total hour cost
Target Setting Tool	23	1	23	0.6	13.8	$24.78	$342
Aggregate Program Level Tool [2]	23	4	92	0.6	55.2	24.78	1,368
CSAP Total	23	.....	115	.....	72	.....	1,710

[1] The hourly wage estimate is $21.23 based on the Occupational Employment and Wages, Mean Hourly Wage Rate for 21–1011 Substance Abuse and Behavioral Disorder Counselors = $24.78/hr. as of May 11, 2021. (*http://www.bls.gov/oes/current/oes211011.htm.* Accessed on May 11, 2021.)

[2] This is an aggregate tool and collection is based on encounters.

Send comments to Carlos D. Graham, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–A, Rockville, Maryland 20857, *OR* email a copy to *Carlos.Graham@samhsa.hhs.gov.* Written comments should be received by April 15, 2022.

Carlos Graham,

Reports Clearance Officer.

[FR Doc. 2022–03107 Filed 2–11–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2203]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

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: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

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).

These 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

(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.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Alabama: Lee	City of Opelika (21–04–1701P).	The Honorable Gary Fuller, Mayor, City of Opelika, P.O. Box 390, Opelika, AL 36803.	Department of Public Works, 700 Fox Trail, Opelika, AL 36803.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 29, 2022	010145
Florida:						
Lake	Unincorporated areas of Lake County (20–04–5238P).	Ms. Jennifer Barker, Interim Manager, Lake County, 315 West Main Street, Tavares, FL 32778.	Lake County Public Works Department, 323 North Sinclair Avenue, Tavares, FL 32778.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 8, 2022	120421

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Monroe	Village of Islamorada (21–04–5529P).	The Honorable Buddy Pinder, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 11, 2022	120424
Orange	Unincorporated areas of Orange County (20–04–5238P).	The Honorable Jerry L. Demings, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Division, 4200 South John Young Parkway, Orlando, FL 32839.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 8, 2022	120179
Pasco	Unincorporated areas of Pasco County (20–04–2814P).	The Honorable Kathryn Starkey, Chair, Pasco County Board of Commissioners, 37918 Meridian Avenue, Dade City, FL 33525.	Pasco County Department of Public Works, 4454 Grand Boulevard, New Port Richey, FL 34652.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 11, 2022	120230
Maryland:						
Cecil	Town of Charlestown (21–03–1510P).	The Honorable Karl Fockler, President, Town of Charlestown Board of Commissioners, P.O. Box 154, Charlestown, MD 21914.	Town Hall, 241 Market Street, Charlestown, MD 21914.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 31, 2022	240021
Cecil	Unincorporated areas of Cecil County (21–03–1510P).	The Honorable Danielle Hornberger, Cecil County Executive, 200 Chesapeake Boulevard, Suite 2100, Elkton, MD 21921.	Cecil County Department of Land Use and Development Services, 200 Chesapeake Boulevard, Suite 1200, Elkton, MD 21921.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 31, 2022	240019
Dorchester	Unincorporated areas of Dorchester County (21–03–1511P).	The Honorable Jay L. Newcomb, President, Dorchester County Council, P.O. Box 107, Cambridge, MD 21613.	Dorchester County Planning and Zoning Department, 501 Court Lane, Room 111, Cambridge, MD 21613.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 11, 2022	240026
Massachusetts: Barnstable.	Town of Chatham (21–01–1300P).	Ms. Jill Goldsmith, Manager, Town of Chatham, 549 Main Street, Chatham, MA 02633.	Community Development Department, 261 George Ryder Road, Chatham, MA 02633.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 11, 2022	250004
Mississippi:						
DeSoto	Unincorporated areas of DeSoto County (20–04–2263P).	Ms. Vanessa Lynchard, DeSoto County Administrator, 365 Losher Street, Suite 300, Hernando, MS 38632.	DeSoto County Planning Department, 365 Losher Street, Suite 200, Hernando, MS 38632.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 25, 2022	280050
Harrison	City of Pass Christian (21–04–3028P).	The Honorable Jimmy Rafferty, Mayor, City of Pass Christian, 200 West Scenic Drive, Pass Christian, MS 39571.	City Hall, 200 West Scenic Drive, Pass Christian, MS 39571.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2022	285261
North Carolina: Surry.	Unincorporated areas of Surry County (21–04–0390P).	The Honorable Mark Marion, Chairman, Surry County Board of Commissioners, P.O. Box 1467, Dobson, NC 27017.	Surry County Central Permitting Center, 122 Hamby Road, Dobson, NC 27017.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 14, 2022	370364
South Carolina:						
Jasper	City of Hardeeville (21–04–2468P).	Mr. Michael J. Czymbor, Manager, City of Hardeeville, 205 Main Street, Hardeeville, SC 29927.	Planning and Development Department, 205 Main Street, Hardeeville, SC 29927.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 10, 2022	450113
Jasper	Unincorporated areas of Jasper County (21–04–2468P).	The Honorable Barbara Clark, Chair, Jasper County Council, 358 3rd Avenue, Ridgeland, SC 29936.	Jasper County Planning and Building Department, 358 3rd Avenue, Ridgeland, SC 29936.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 10, 2022	450112
South Dakota: Pennington.	City of Rapid City (21–08–0301P).	The Honorable Steve Allender, Mayor, City of Rapid City, 300 6th Street, Rapid City, SD 57701.	Public Works Department-Engineering Services Division, 300 6th Street, Rapid City, SD 57701.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2022	465420
Texas:						
Bexar	City of San Antonio (21–06–1633P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Stormwater Engineering Division, 114 West Commerce Street, 6th Floor, San Antonio, TX 78205.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 14, 2022	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Bexar	Unincorporated areas of Bexar County (21–06–1633P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 14, 2022	480035
Dallas	City of Carrollton (21–06–1452P).	Ms. Erin Rinehart, Manager, City of Carrollton, 1945 East Jackson Road, Carrollton, TX 75006.	Engineering Department, 1945 East Jackson Road, Carrollton, TX 75006.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 28, 2022	480167
Dallas	City of Coppell (21–06–1452P).	The Honorable Wes Mays, Mayor, City of Coppell, P.O. Box 9478, Coppell, TX 75019.	Department of Public Works, 265 East Parkway Boulevard, Coppell, TX 75019.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 28, 2022	480170
Harris	Unincorporated areas of Harris County (21–06–0376P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 7, 2022	480287
Lubbock	City of Lubbock (21–06–0664P).	The Honorable Dan Pope, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, TX 79457.	Engineering Department, 1314 Avenue K, 7th Floor, Lubbock, TX 79401.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 28, 2022	480452
Tarrant	City of Benbrook (21–06–0911P).	The Honorable Jerry Dittrich, Mayor, City of Benbrook, 911 Winscott Road, Benbrook, TX 76126.	City Hall, 911 Winscott Road, Benbrook, TX 76126.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2022	480586
Tarrant	City of Fort Worth (21–06–0911P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2022	480596
Utah:						
Salt Lake	City of Riverton (21–08–0943P).	The Honorable Trent Staggs, Mayor, City of Riverton, 12830 South Redwood Road, Riverton, UT 84065.	Public Works Department, 12526 South 4150 West, Riverton, UT 84096.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 28, 2022	490104
Salt Lake	City of South Jordan (21–08–0943P).	The Honorable Dawn R. Ramsey, Mayor, City of South Jordan, 1600 West Towne Center Drive, South Jordan, UT 84095.	Development Services Department, 1600 West Towne Center Drive, South Jordan, UT 84095.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 28, 2022	490107
West Virginia:						
Grant	City of Petersburg (21–03–0421P).	The Honorable Gary A. Michael, Mayor, City of Petersburg, 21 Mount View Street, Petersburg, WV 26847.	City Hall, 21 Mount View Street, Petersburg, WV 26847.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 23, 2022	540039
Grant	Unincorporated areas of Grant County (21–03–0421P).	The Honorable Scotty Miley, President, Grant County Commission, 5 Highland Avenue, Petersburg, WV 26847.	Grant County Courthouse, 5 Highland Avenue, Petersburg, WV 26847.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 23, 2022	540038

[FR Doc. 2022–03117 Filed 2–11–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.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: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, 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.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(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.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
California:					
Santa Barbara (FEMA Docket No.: B–2175).	City of Goleta (21–09–0174P).	The Honorable Paula Perotte, Mayor, City of Goleta, 130 Cremona Drive, Suite B, Goleta, CA 93117.	Public Works Department, 130 Cremona Drive, Suite B, Goleta, CA 93117.	Jan. 31, 2022	060771
Santa Barbara (FEMA Docket No.: B–2175).	Unincorporated areas of Santa Barbara County, (21–09–0174P).	Ms. Mona Miyasato, Santa Barbara County, Executive Officer, 105 East Anapamu Street, Suite 406, Santa Barbara, CA 93101.	Santa Barbara County, Flood Control and Water Conservation, District 130, East Victoria Street, Suite 200, Santa Barbara, CA 93101.	Jan. 31, 2022	060331
Colorado:					
Boulder (FEMA Docket No.: B–2175).	Town of Erie (21–08–0313P).	The Honorable Jennifer Carroll, Mayor, Town of Erie P.O. Box 750 Erie, CO 80516.	Town Hall, 645 Holbrook Street, Erie, CO 80516.	Jan. 26, 2022	080181
Boulder (FEMA Docket No.: B–2175).	Unincorporated areas of Boulder County (21–08–0313P).	The Honorable Matt Jones, Chairman, Boulder County, Board of Commissioners, P.O. Box 471, Boulder, CO 80306.	Boulder County, Transportation Department, 2525 13th Street, Suite 203, Boulder, CO 80304.	Jan. 26, 2022	080023
Weld (FEMA Docket No.: B–2175).	City of Evans (21–08–0633P).	The Honorable Brian Rudy, Mayor, City of Evans, 1100 37th Street, Evans, CO 80620.	City Hall, 1100 37th Street, Evans, CO 80620.	Jan. 27, 2022	080182
Weld (FEMA Docket No.: B–2175).	Unincorporated areas of Weld County (21–08–0633P).	The Honorable Steve Moreno, Chairman, Weld County, Board of Commissioners, P.O. Box 758, Greeley, CO 80632.	Weld County Commissioner's Office, 1150 O Street, Greeley, CO 80631.	Jan. 27, 2022	080266
Florida:					
Monroe (FEMA Docket No.: B–2178).	City of Key West (21–04–3573P).	The Honorable Teri Johnston, Mayor, City of Key West, P.O. Box, 1409 Key West, FL 33041.	City Hall, 1300 White Street, Key West, FL 33041.	Jan. 24, 2022	120168
Monroe (FEMA Docket No.: B–2175).	City of Marathon (21–04–4337P).	The Honorable Luis Gonzalez, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	Jan. 18, 2022	120681
Monroe (FEMA Docket No.: B–2178).	Unincorporated areas of Monroe County (21–04–4442P).	The Honorable Michelle Coldiron, Commissioner, Monroe County, Board of Commissioners, 25 Ships Way Big Pine Key, FL 33043.	Monroe County, Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Jan. 24, 2022	125129
Volusia (FEMA Docket No.: B–2175).	City of DeBary (21–04–0574P).	Ms. Carmen, Rosamonda Manager, City of DeBary, 16 Colombia Road, DeBary, FL 32713.	City Hall, 16 Colombia Road, DeBary, FL 32713.	Jan. 19, 2022	120672
Mississippi: DeSoto (FEMA Docket No.: B–2178).	City of Southaven (21–04–1757P).	The Honorable Darren Musselwhite, Mayor, City of Southaven, 8710 Northwest Drive, Southaven, MS 38671.	Geographic Information Systems Department, 8710 Northwest Drive, Southaven, MS 38671.	Jan. 28, 2022	280331
Montana: Stillwater (FEMA Docket No.: B–2175).	Unincorporated areas of Stillwater County (21–08–0127P).	The Honorable Mark Crago, Chairman, Stillwater County, Board of Commissioners, P.O. Box 970, Columbus, MT 59019.	Stillwater County, South Annex, 17 North 4th Street, Columbus, MT 59019.	Jan. 21, 2022	300078
South Carolina:					
Charleston (FEMA Docket No.: B–2175).	City of North Charleston (21–04–4892P).	The Honorable R. Keith Summey, Mayor, City of North Charleston, 2500 City Hall Lane, North Charleston, SC 29406.	Building Department, 2500 City Hall Lane, North Charleston, SC 29406.	Jan. 24, 2022	450042

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Charleston (FEMA Docket No.: B–2178).	Town of Mount Pleasant (21–04–4673P).	The Honorable Will Haynie, Mayor, Town of Mount Pleasant, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Engineering and Development Services Department, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Jan. 31, 2022	455417
South Dakota: Pennington (FEMA Docket No.: B–2182).	Unincorporated areas of Pennington County (21–08–0193P).	The Honorable Gary Drewes, Chairman, Pennington County, Board of Commissioners, 130 Kansas City Street, Suite 100, Rapid City, SD 57701.	Pennington County, Office Building, 130 Kansas City Street, Rapid City, SD 57701.	Jan. 18, 2022	460064
Tennessee: Williamson (FEMA Docket No.: B–2175).	Unincorporated areas of Williamson County (21–04–2547P).	The Honorable Rogers Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County, Administrative Complex, 1320 West Main Street, Suite 400, Franklin, TN 37064.	Jan. 21, 2022	470204
Texas:					
Collin (FEMA Docket No.: B–2178).	City of Dallas (21–06–1108P).	The Honorable Eric Johnson, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Oak Cliff Municipal Center, 320 East Jefferson Boulevard, Room 312, Dallas, TX 75203.	Jan. 31, 2022	480171
Collin (FEMA Docket No.: B–2182).	Town of Prosper (21–06–1205P).	The Honorable Ray Smith, Mayor, Town of Prosper, 250 West 1st Street, Prosper, TX 75078.	Town Hall, 250 West 1st Street, Prosper, TX 75078.	Jan. 27, 2022	480141
Navarro (FEMA Docket No.: B–2178).	City of Corsicana (21–06–0729P).	The Honorable Don Denbow, Mayor, City of Corsicana, 200 North 12th Street, Corsicana, TX 75110.	City Hall, 200 North 12th Street, Corsicana, TX 75110.	Jan. 26, 2022	480498
Tarrant (FEMA Docket No.: B–2175).	City of Benbrook (21–06–2442P).	The Honorable Jerry Dittrich, Mayor, City of Benbrook, 911 Winscott Road, Benbrook, TX 76126.	City Hall, 911 Winscott Road, Benbrook, TX 76126.	Jan. 20, 2022	480586
Tarrant (FEMA Docket No.: B–2175).	City of Fort Worth (21–06–0792P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	Jan. 24, 2022	480596
Tarrant (FEMA Docket No.: B–2175).	City of Fort Worth (21–06–2442P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	Jan. 20, 2022	480596
Tarrant (FEMA Docket No.: B–2175).	City of Keller (21–06–1040P).	The Honorable Armin R. Mizani, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	City Hall, 1100 Bear Creek Parkway, Keller, TX 76248.	Jan. 20, 2022	480602
Travis (FEMA Docket No.: B–2175).	City of Austin (21–06–1313P).	The Honorable Steve Adler, Mayor, City of Austin, P.O. Box 1088, Austin, TX 78767.	Watershed Protection Department, 505 Barton Springs Road, 12th Floor, Austin, TX 78704.	Jan. 18, 2022	480624
Travis (FEMA Docket No.: B–2175).	City of Pflugerville (21–06–0589P).	The Honorable Victor Gonzales, Mayor, City of Pflugerville, P.O. Box 589, Pflugerville, TX 78691.	Development Services Department, 201–B East, Pecan Street, Pflugerville, TX 78691.	Jan. 18, 2022	481028
Travis (FEMA Docket No.: B–2175).	Unincorporated areas of Travis County (21–06–0589P).	The Honorable Andy Brown, Travis County, Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	Jan. 18, 2022	481026
Virginia:					
Loudoun (FEMA Docket No.: B–2178).	Unincorporated areas of Loudoun County (21–03–0460P).	Mr. Tim Hemstreet, Loudoun County Administrator, P.O. Box 7000, Leesburg, VA 20177.	Loudoun County Mapping and Geographic Information Department, 1 Harrison Street, Southeast, 3rd Floor, Leesburg, VA 20175.	Jan. 18, 2022	510090
Loudoun (FEMA Docket No.: B–2178).	Unincorporated areas of Loudoun County (21–03–1384P).	Mr. Tim Hemstreet, Loudoun County Administrator, P.O. Box 7000, Leesburg, VA 20177.	Loudoun County Mapping and Geographic Information Department, 1 Harrison Street, Southeast, 3rd Floor, Leesburg, VA 20175.	Jan. 31, 2022	510090
Prince William (FEMA Docket No.: B–2175).	City of Manassas (21–03–0526P).	Mr. W. Patrick Pate, City of Manassas Manager, 9027 Center Street, Manassas, VA 20110.	Department of Public Works, 8500 Public Works Drive, Manassas, VA 20110.	Jan. 21, 2022	510122
Prince William (FEMA Docket No.: B–2175).	Unincorporated areas of Prince William County (21–03–0526P).	Mr. Christopher E. Martino, Prince William County, Executive 1 County Complex Court, Prince William, VA 22192.	Prince William County Watershed Management Branch, 5 County Complex Court, Suite 170, Prince William, VA 22192.	Jan. 21, 2022	510119

[FR Doc. 2022–03125 Filed 2–11–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2213]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each

community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

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: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

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).

These 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

(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.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Buckeye (21–09–0404P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 22, 2022	040039
Maricopa	City of Peoria (21–09–1030P).	The Honorable Cathy Carlat, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	040050
California:						
Contra Costa ..	City of Oakley,(20–09–2109P).	The Honorable Sue Higgins, Mayor, City of Oakley, 3231 Main Street, Oakley, CA 94561.	Public Works and Engineering Department, 3231 Main Street, Oakley, CA 94561.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 7, 2022	060766
Placer	Unincorporated Areas of Placer County (21–09–1293P).	The Honorable Robert Weygandt, Chairman, Board of Supervisors, Placer County, 175 Fulweiler Avenue, Auburn, CA 95603.	Placer County Public Works, 3091 County Center Drive, Suite 220, Auburn, CA 95603.	*https://msc.fema.gov/portal/advanceSearch.*	May 16, 2022	060239
San Bernardino.	City of Rancho Cucamonga (21–09–0942P).	The Honorable L. Dennis Michael, Mayor, City of Rancho Cucamonga, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.	City Hall, Engineering Department Plaza Level, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 28, 2022	060671

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Ventura	City of Simi Valley (21–09–1199P).	The Honorable Keith L. Mashburn, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	City Hall, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 15, 2022	060421
Florida: Duval	City of Jacksonville (21–04–0596P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	April 7, 2022	120077
Illinois						
McHenry	Village of Algonquin (21–05–4386P).	The Honorable Debby Sosine, Village President, Village of Algonquin, 2200 Harnish Drive, Algonquin, IL 60102.	Village Hall, 2200 Harnish Drive, Algonquin, IL 60102.	*https://msc.fema.gov/portal/advanceSearch.*	May 23, 2022	170474
Will	City of Lockport (19–05–4019P).	The Honorable Steven Streit, Mayor, City of Lockport, 222 East 9th Street, Lockport, IL 60441.	Public Works and Engineering Department, 17112 South Prime Boulevard, Lockport, IL 60441.	*https://msc.fema.gov/portal/advanceSearch.*	May 23, 2022	170703
Will	Unincorporated Areas of Will County (19–05–4019P).	The Honorable Jennifer Bertino-Tarrant, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	*https://msc.fema.gov/portal/advanceSearch.*	May 23, 2022	170695
Michigan:						
Wayne	Charter Township of Plymouth (21–05–1510P).	Mr. Kurt Heise, Township Supervisor, Charter Township of Plymouth, 9955 North Haggerty Road, Plymouth, MI 48170.	Township Hall, 9955 North Haggerty Road, Plymouth, MI 48170.	*https://msc.fema.gov/portal/advanceSearch.*	May 6, 2022	260237
Wayne	Township of Canton (21–05–2918P).	Mrs. Anne Marie Graham-Hudak, Supervisor, Canton Township, 1150 South Canton Center Road, Canton, MI 48188.	Canton Municipal Complex, 1150 South Canton Center Road, Canton, MI 48188.	*https://msc.fema.gov/portal/advanceSearch.*	May 6, 2022	260219
Minnesota: Marshall.	City of Argyle (21–05–4569P).	The Honorable Robert Clausen, Mayor, City of Argyle, P.O. Box 288, Argyle, MN 56713.	City Hall, 701 Pacific Avenue, Argyle, MN 56713.	*https://msc.fema.gov/portal/advanceSearch.*	April 22, 2022	270268
Nebraska: Dawson	City of Gothenburg (21–07–0869P).	The Honorable Joyce Hudson, Mayor, City of Gothenburg, 409 9th Street, Gothenburg, NE 69138.	Town Hall, 409 9th Street, Gothenburg, NE 69138.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	310062
New York: Rockland.	Town of Ramapo (20–02–1315P).	The Honorable Michael B. Specht, Town Supervisor, Town of Ramapo, 237 Route 59, Suffern, NY 10901.	Ramapo Office of the Building Inspector, 237 Route 59, Suffern, NY 10901.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 1, 2022	365340
Texas: Aransas	Unincorporated Areas of Aransas County (21–06–1547P).	The Honorable C. H. ''Burt'' Mills, Jr., County Judge, Commissioners Court, Aransas County Courthouse, 2840 Highway 35N, Rockport, TX 78382.	Aransas County Road and Bridge Office, 1931 FM 2165, Rockport, TX 78382.	*https://msc.fema.gov/portal/advanceSearch.*	May 16, 2022	485452
Washington: King	City of Issaquah (21–10–0355P).	The Honorable Mary Lou Pauly, Mayor, City of Issaquah, 130 E Sunset Way, Issaquah, WA 98027.	City Hall, 1775 12th Avenue Northwest, Issaquah, WA 98027.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 26, 2022	530079
Wisconsin: Waukesha.	Village of Menomonee Falls (21–05–3044P).	Mr. Dave Glasgow, Village President, Village of Menomonee Falls, W156 N8480 Pilgrim Road, Menomonee Falls, WI 53051.	Village Hall, W156 N8480 Pilgrim Road, Menomonee Falls, WI 53051.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	550483

[FR Doc. 2022–03121 Filed 2–11–22; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2214]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

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: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

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).

These 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

(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.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
California: Santa Barbara.	City of Goleta (21–09–1693P).	The Honorable Paula Perotte, Mayor, City of Goleta, 130 Cremona Drive, Suite B, Goleta, CA 93117.	Public Works Department, 130 Cremona Drive, Suite B, Goleta, CA 93117.	*https://msc.fema.gov/portal/advanceSearch.*	May 23, 2022	060771
Colorado:						
Arapahoe	City of Aurora (21–08–0331P).	The Honorable Mike Coffman, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Public Works Department, 15151 East Alameda Parkway, Aurora, CO 80012.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	080002
Arapahoe	City of Aurora (21–08–0828P).	The Honorable Mike Coffman, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Public Works Department, 15151 East Alameda Parkway, Aurora, CO 80012.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 8, 2022	080002

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arapahoe	Unincorporated areas of Arapahoe County (21–08–0331P).	The Honorable Nancy N. Sharpe, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	080011
Routt	City of Steamboat Springs (21–08–0824P).	Mr. Gary Suiter, Manager, City of Steamboat Springs, P.O. Box 775088, Steamboat Springs, CO 80477.	City Hall, 137 10th Street, Steamboat Springs, CO 80477.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 18, 2022	080159
Florida:						
Monroe	Unincorporated areas of Monroe County (21–04–3823P).	The Honorable Michelle Coldiron, Commissioner, Monroe County Board of Commissioners, 25 Ships Way, Big Pine Key, FL 33043.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	May 16, 2022	125129
Sarasota	City of Sarasota (21–04–3619P).	The Honorable Erik Arroyo, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Development Services Department, 1565 1st Street, Sarasota, FL 34236.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	125150
Sarasota	Unincorporated areas of Sarasota County (21–04–6095P).	The Honorable Alan Maio, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	*https://msc.fema.gov/portal/advanceSearch.*	May 13, 2022	125144
Georgia:						
Bryan	Unincorporated areas of Bryan County (21–04–4473P).	The Honorable Carter Infinger, Chairman, Bryan County Board of Commissioners, 51 North Courthouse Street, Pembroke, GA 31321.	Bryan County Department of Engineering and Inspections, 51 North Courthouse Street, Pembroke, GA 31321.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 29, 2022	130016
DeKalb	City of Brookhaven (21–04–2020P).	Mr. Christian Sigman, Manager, City of Brookhaven, 4362 Peachtree Road, Brookhaven, GA 30319.	City Hall, 4362 Peachtree Road, Brookhaven, GA 30319.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 18, 2022	135175
DeKalb	Unincorporated areas of DeKalb County (21–04–2020P).	The Honorable Michael L. Thurmond, Chief Executive Officer, DeKalb County, 1300 Commerce Drive, Decatur, GA 30030.	DeKalb County Public Works Department, Roads and Drainage Division, 727 Camp Road, Decatur, GA 30032.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 18, 2022	130065
Tift	City of Tifton (21–04–5139X).	The Honorable Julie Smith, Mayor, City of Tifton, 130 1st Street East, Tifton, GA 31794.	City Hall, 130 1st Street East, Tifton, GA 31794.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 10, 2022	130171
Tift	Unincorporated areas of Tift County (21–04–5139X).	Mr. Jim Carter, Manager, Tift County, Board of Commissioners, 225 North Tift Avenue, Room 204, Tifton, GA 31794.	Tift County Building Department, 225 North Tift Avenue, Tifton, GA 31794.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 10, 2022	130404
Kentucky: Pike	Unincorporated areas of Pike County (21–04–4538P).	The Honorable Ray S. Jones, Judge Executive, Pike County, 146 Main Street, Pikeville, KY 41501.	Pike County Court House, 146 Main Street, Pikeville, KY 41501.	*https://msc.fema.gov/portal/advanceSearch.*	May 16, 2022	210298
Louisiana: East Baton Rouge.	City of Baton Rouge (21–06–3439P).	The Honorable Sharon Weston L. Broome, Mayor, City of Baton Rouge, P.O. Box 1471, Baton Rouge, LA 70821.	Department of Development, 1100 Laurel Street, Room 200, Baton Rouge, LA 70802.	*https://msc.fema.gov/portal/advanceSearch.*	May 5, 2022	220159
Maryland: Frederick.	Unincorporated areas of Frederick County (21–03–0980P).	The Honorable Jan H. Gardner, Frederick County Executive, 12 East Church Street, Frederick, MD 21701.	Frederick County Division of Planning and Permitting, 30 North Market Street, Frederick, MD 21701.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 11, 2022	240027
Massachusetts: Essex.	Town of Nahant (21–01–1078P).	The Honorable Josh Antrim, Chairman, Town of Nahant Board of Selectmen, 334 Nahant Road, Nahant, MA 01908.	Public Works Department, 334 Nahant Road, Nahant, MA 01908.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 13, 2022	250095
Montana:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Gallatin	Unincorporated areas of Gallatin County (21–08–1190P).	The Honorable Scott MacFarlane, Chairman, Gallatin County Commission, 311 West Main Street, Room 306, Bozeman, MT 59715.	Gallatin County Department of Planning and Community Development, 311 West Main Street, Room 108, Bozeman, MT 59715.	*https://msc.fema.gov/portal/advanceSearch.*	May. 6, 2022	300027
Missoula	City of Missoula (21–08–0878P).	The Honorable John Engen, Mayor, City of Missoula, 435 Ryman Street, Missoula, MT 59802.	City Hall, 435 Ryman Street, Missoula, MT 59802.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 27, 2022	300049
Missoula	Unincorporated areas of Missoula County (21–08–0878P).	The Honorable David Strohmaier, Chairman, Missoula County Board of Commissioners, 199 West Pine Street, Missoula, MT 59802.	Missoula County Community and Planning Services Department, 127 East Main Street, Missoula, MT 59802.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 27, 2022	300048
North Carolina:						
Johnston	Unincorporated areas of Johnston County (20–04–5908P).	The Honorable Chad Stewart, Chairman, Johnston County Board of Commissioners, P.O. Box 1049, Smithfield, NC 27577.	Johnston County Planning Department, 309 East Market Street, Clayton, NC 27520.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 17, 2022	370138
Orange	Unincorporated areas of Orange County (21–04–0006P).	The Honorable Renee Price, Chair, Orange County Board of Commissioners, P.O. Box 1303, Hillsborough, NC 27278.	Orange County Planning, Department, 131 West Margaret Lane, Hillsborough, NC 27278.	*https://msc.fema.gov/portal/advanceSearch.*	Feb 10, 2022	370342
Pender	Town of Burgaw (20–04–3993P).	The Honorable Kenneth Cowan, Mayor, Town of Burgaw, 109 North Walker Street, Burgaw, NC 28425.	Town Hall, 109 North Walker Street, Burgaw, NC 28425.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 11, 2022	370483
Union	Unincorporated areas of Union County (21–04–0276P).	The Honorable Richard Helms, Chairman, Union County Board of Commissioners, 500 North Main Street, Suite 918, Monroe, NC 28112.	Union County Planning, Department, 500 North Main Street, Suite 70, Monroe, NC 28112.	*https://msc.fema.gov/portal/advanceSearch.*	Feb 18, 2022	370234
Tennessee:						
Shelby	City of Millington (21–04–1321P).	The Honorable Terry Jones, Mayor, City of Millington, 4715 Oak Harbour Trace, Millington, TN 38053.	Planning and Economic Development Department, 7930 Nelson Road, Millington, TN 38053.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 15, 2022	470178
Sumner	City of Gallatin (21–04–1323P).	The Honorable Paige Brown, Mayor, City of Gallatin, 132 West Main Street, Gallatin, TN 37066.	City Hall, 132 West Main Street, Gallatin, TN 37066.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 22, 2022	470185
Sumner	Unincorporated areas of Sumner County (21–04–1323P).	The Honorable Anthony Holt, Mayor, Sumner County, 355 North Belvedere Drive, Gallatin, TN 37066.	Sumner County Building Department, 355 North Belvedere Drive, Gallatin, TN 37066.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 22, 2022	470349
Texas:						
Bexar	City of Alamo Heights (21–06–1034P).	The Honorable Bobby Rosenthal, Mayor, City of Alamo Heights, 6116 Broadway Street Alamo Heights, TX 78209.	Community Development Services Department, 6116 Broadway Street Alamo Heights, TX 78209.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 4, 2022	480036
Bexar	Unincorporated areas of Bexar County (21–06–0768P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 21, 2022	480035
Harris	Unincorporated areas of Harris County (19–06–2368P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 18, 2022	480287
Kendall	Unincorporated areas of Kendall County (21–06–1445P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Engineer and Development Management Office, 201 East San Antonio Avenue, Suite 101, Boerne, TX 78006.	*https://msc.fema.gov/portal/advanceSearch.*	Mar. 16, 2022	480417

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Montgomery ...	Unincorporated areas of Montgomery County (19–06–2368P).	The Honorable Mark Keough, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Engineering Department, 501 North Thompson Street, Suite 103, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 18, 2022	480483
Webb	City of Laredo (21–06–1239P).	The Honorable Pete Saenz, Mayor, City of Laredo, 1110 Houston Street, 3rd Floor, Laredo, TX 78040.	Planning and Zoning Department, 1413 Houston Street, Laredo, TX 78040.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 8, 2022	480651

[FR Doc. 2022–03122 Filed 2–11–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2200]

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 May 16, 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–2200, 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
Christian County, Missouri and Incorporated Areas Project: 19–07–0059S Preliminary Date: July 28, 2021	
City of Clever	City Hall, 304 South Clarke Avenue, Clever, MO 65631.
City of Fremont Hills	City Hall, 1953 Fremont Hills Drive, Fremont Hills, MO 65714.
City of Nixa	City Hall, 715 West Mount Vernon Street, Nixa, MO 65714.
City of Ozark	City Hall, 205 North 1st Street, Ozark, MO 65721.
City of Sparta	City Hall, 200 North Avenue, Sparta, MO 65753.
Unincorporated Areas of Christian County	Christian County Resource Management Building, 1106 West Jackson Street, Ozark, MO 65721.
Johnson County, Texas and Incorporated Areas Project: 20–06–0101S Preliminary Date: September 24, 2021	
City of Cleburne	City Hall, 10 North Robinson Street, Cleburne, TX 76031.
City of Mansfield	City Hall, 1200 East Broad Street, Mansfield, TX 76063.
City of Venus	City Hall, 700 West US Highway 67, Venus, TX 76084.
Unincorporated Areas of Johnson County	Johnson County Public Works Department, 2 North Mill Street, Suite 305, Cleburne, TX 76033.

[FR Doc. 2022–03123 Filed 2–11–22; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2022–N001; FXES11130200000–223–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to recover and enhance endangered species survival. With some exceptions, the Endangered Species Act of 1973, as amended (ESA), prohibits certain activities that may impact endangered species unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please submit your written comments by March 16, 2022.

ADDRESSES:

Document availability: Request documents by phone or email: Marty Tuegel 505–248–6651, *marty_tuegel@fws.gov.*

Comment submission: Submit comments by email to *fw2_te_permits@fws.gov.* Please specify the permit you are interested in by number (*e.g.,* Application No. ESPER1234567).

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Supervisor, Environmental Review Division, 505–248–6651. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

With some exceptions, the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing but also such activities as pursuing, harassing, trapping, capturing, or collecting.

The ESA and our implementing regulations in the Code of Federal Regulations (CFR) at title 50, part 17, provide for issuing such permits and require that we invite public comment before issuing permits for activities involving listed species.

A recovery permit we issue under the ESA, section 10(a)(1)(A), authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or enhance the species' propagation or survival. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Documents and other information submitted with these applications are available for review by any party who submits a request as specified in **ADDRESSES**. Releasing documents is subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. We invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Please refer to the application number when submitting comments.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER0030652	Miller, Marvin; Spring Branch, Texas.	Beetle [no common name] (*Rhadine exilis*), beetle [no common name] (*Rhadine infernalis*), Helotes mold beetle (*Batrisodes venyivi*), Cokendolpher Cave harvestman (*Texella cokendolpheri*), Robber Baron Cave meshweaver (*Cicurina baronia*), Madla Cave meshweaver (*Cicurina madla*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), Government Canyon Bat Cave spider (*Neoleptoneta microps*).	Texas	Presence/absence surveys, capture.	Harm, harass	New.
PER0029468	Jenkerson, Jeffrey; San Marcos, Texas.	Houston toad (*Bufo houstonensis*)	Texas	Presence/absence surveys, capture, handling, biosampling, translocation, release.	Harass, harm	New.
PER0029467	Gladstone, Nicholas S.; Austin, Texas.	Austin blind salamander (*Eurycea waterlooensis*), Barton Springs salamander (*Eurycea sosorum*), beetle [no common name] (*Rhadine exilis*), beetle [no common name] (*Rhadine infernalis*), Coffin Cave mold beetle (*Batrisodes texanus*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), Helotes mold beetle (*Batrisodes venyivi*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), Bee Creek Cave harvestman (*Texella reddelli*), Bone Cave harvestman (*Texella reyesi*), Cokendolpher Cave harvestman (*Texella cokendolpheri*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), Government Canyon Bat Cave spider (*Neoleptoneta microps*), Madla Cave meshweaver (*Cicurina madla*), Robber Baron Cave meshweaver (*Cicurina baronia*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Tooth Cave spider (*Neoleptoneta myopica*), Peck's Cave amphipod (*Stygobromus pecki*).	Texas	Presence/absence surveys, habitat assessment.	Harass, harm	New.
PER0030653	Grouse Mountain Environmental Consultants, LLC.; Buffalo, Wyoming.	Rio Grande silvery minnow (*Hybognathus amarus*), spikedace (*Meda fulgida*), southwestern willow flycatcher (*Empidonax traillii extimus*).	Arizona, Colorado, New Mexico, Texas, Utah, Wyoming.	Presence/absence surveys, monitoring.	Harass, harm	Renew/amend.
ES068189	Archaeological Consulting Services—A Commonwealth Heritage Group, Inc. Company; Tempe, Arizona.	Southwestern willow flycatcher (*Empidonax traillii extimus*).	Arizona, New Mexico	Presence/absence surveys	Harass, harm	Amend.
PER0018550	Mowad, Gary; Scottsdale, Arizona.	Black-lace cactus (*Echinocereus reichenbachii* var. *albertii*), Tobusch fishhook cactus (*Sclerocactus brevihamatus* ssp. *tobuschii*).	Texas	Presence/absence surveys, collection, transplantation.	Collect	New.
PER0005103	Proppe, Darren; Dripping Springs, Texas.	Golden-cheeked warbler (*Dendroica chrysoparia*)	Texas	Presence/absence surveys, habitat assessment.	Harass, harm	New.
PER0012186	San Antonio Aquarium; San Antonio, Texas.	Green sea turtle (*Chelonia mydas*)	Texas	Rehabilitation, display for educational purposes, release into the wild.	Harass, harm	New.
PER0030654	U.S. Forest Service, Tonto National Forest; Mesa, Arizona.	Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma Ridgway's rail (*Rallus obsoletus yumanensis*), Colorado pikeminnow (*Ptychocheilus lucius*), desert pupfish (*Cyprinodon macularius*), Gila chub (*Gila intermedia*), Gila topminnow (*Poeciliopsis occidentalis*), razorback sucker (*Xyrauchen texanus*).	Arizona	Survey/monitoring	Harass, harm	Renew/amend.
PER0002439	U.S. Army; Fort Hood, Texas	Golden-cheeked warbler (*Dendroica chrysoparia*)	Texas	Survey/monitoring, capture, handling, banding, tracking, release.	Harass, harm	Renew/amend.
PER0030655	Wallgren, Jenny; Johnson City, Texas.	Golden-cheeked warbler (*Dendroica chrysoparia*)	Texas	Presence/absence surveys	Harass, harm	New.
PER0029730	Prescott, Jacqueline; Spring, Texas.	Houston toad (*Bufo houstonensis*)	Texas	Presence/absence surveys	Harass, harm	New.
PER0029738	Pebworth, Michael: Houston, Texas.	Golden-cheeked warbler (*Dendroica chrysoparia*)	Texas	Presence/absence surveys	Harass, harm	New.

PER0030658	USGS, Southwest Biological Science Center; Flagstaff, Arizona.	Arizona eryngo (*Eryngium sparganophyllum*), Huachuca water umbel (*Lilaeopsis schaffneriana* var. *recurva*), Arizona cliffrose (*Purshia subintegra*).	Arizona	Collection	Collect	New.
PER0030603	Sphere 3 Environmental; Longview, Texas.	Red-cockaded woodpecker (*Picoides borealis*)	Texas	Presence/absence surveys	Harass, harm	Renew.
PER0030542	Long, Ashley; Baton Rouge, Louisiana.	Golden-cheeked warbler (*Dendroica chrysoparia*)	Texas	Survey/monitoring, capture, handling, banding, tracking, release.	Harass, harm	Renew and Amend.
PER0030546	Griffin, David; Green Valley, Arizona.	Northern aplomado falcon (*Falco femoralis septentrionalis*), southwestern willow flycatcher (*Empidonax traillii extimus*).	Arizona, New Mexico, Texas.	Presence/absence surveys, nest monitoring.	Harass, harm	Renew.
PER0030551	Terry, William; San Marcos, Texas.	Golden-cheeked warbler (*Dendroica chrysoparia*)	Texas	Presence/absence surveys	Harass, harm	New
PER0004032	Horizon Environmental Services, Inc.; Austin, Texas.	Golden-cheeked warbler (*Dendroica chrysoparia*), Houston toad (*Bufo houstonensis*), beetle [no common came] (*Rhadine exilis*), beetle [no common name] (*Rhadine infernalis*), Bracken Bat Cave meshweaver (*Cicurina venii*), Coffin Cave mold beetle (*Batrisodes texanus*), Helotes mold beetle (*Batrisodes venyivi*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), Bee Creek Cave harvestman (*Texella reddelli*), Bone Cave harvestman (*Texella reyesi*), Cokendolpher Cave harvestman (*Texella cokendolpheri*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), Government Canyon Bat Cave spider (*Neoleptoneta microps*), Madla Cave meshweaver (*Cicurina madla*), Robber Baron Cave meshweaver (*Cicurina baronia*), Tooth Cave pseudoscorpion (*Tartarocreagris texana*), Tooth Cave spider (*Neoleptoneta myopica*).	Texas, Oklahoma	Presence/absence surveys	Harass, harm	Renew/amend

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. 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 to withhold your personal identifying information from public review, we cannot guarantee that we will be able to 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 disclosure in their entirety.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Amy L. Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2022–03056 Filed 2–11–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[223A2100DD/AAKC001030/A0A501010.999900]

Request for Nominations of Members To Serve on the Bureau of Indian Education Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act and the Individuals with Disabilities Education Act of 2004 (IDEA), the Bureau of Indian Education (BIE) requests nominations of individuals to serve on the Advisory Board for Exceptional Children (Advisory Board). There will be three positions available to specifically serve in the areas of Indian parents or guardians of children with disabilities within the BIE school system or Indian persons with disabilities. Board members shall serve a staggered term of two years or three years from the date of their appointment. The BIE will consider nominations received in response to this request for nominations, as well as other sources.

DATES: Please submit nominations by April 15, 2022.

ADDRESSES: Please submit nominations to Ms. Jennifer Davis, Designated Federal Officer (DFO), Bureau of Indian Education, Division of Performance and Accountability, 2600 N Central Ave., Suite 800, Phoenix, AZ 85004, or Fax to (602) 265–0293 or email to *jennifer.davis@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Jennifer Davis, DFO, at Telephone (202) 860–7845; or email *jennifer.davis@bie.edu.*

SUPPLEMENTARY INFORMATION: The Advisory Board was established in accordance with the Federal Advisory Committee Act, Public Law 92–463. The following provides information about the Committee, the membership and the nomination process.

1. Objective and Duties

(a) Members of the Advisory Board will provide guidance, advice and recommendations with respect to special education and related services for children with disabilities in BIE funded schools in accordance with the requirements of IDEA; and

(b) The Advisory Board will: (1) Provide advice and recommendations for the coordination of services within the BIE and with other local, State and Federal agencies; (2) Provide advice and recommendations on a broad range of policy issues dealing with the provision of educational services to American Indian children with disabilities; (3) Serve as advocates for American Indian students with special education needs by providing advice and recommendations regarding best practices, effective program coordination strategies, and recommendations for improved educational programming; (4) Provide advice and recommendations for the preparation of information required to be submitted to the Secretary of Education under 20 U.S.C. 1411(h)(2); (5) Provide advice and recommend policies concerning effective inter/intra agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities; and (6) Will report and direct all correspondence to the Assistant Secretary—Indian Affairs through the Director, BIE with a courtesy copy to the Designated Federal Officer (DFO).

2. Membership

(a) Pursuant to 20 U.S.C. 1411(h)(6), the Advisory Board will be composed of up to fifteen individuals involved in or concerned with the education and provision of services to American Indian infants, toddlers, children, and youth with disabilities. The Advisory Board composition will reflect a broad range of viewpoints and will include at least one member representing each of the following interests: American Indians with disabilities; teachers of children with disabilities; American Indian parents or guardians of children with disabilities; service providers; state education officials; local education officials; state interagency coordinating councils (for states having Indian reservations); tribal representatives or tribal organization representatives; and other members representing the various divisions and entities of the BIE; and

(b) The Assistant Secretary—Indian Affairs may provide the Secretary of the Interior recommendations for the chairperson; however, the chairperson and other Advisory Board members will be appointed by the Secretary of the Interior. Advisory Board members shall serve staggered terms of two years or three years from the date of their appointment.

3. Miscellaneous

(a) Members of the Advisory Board will not receive compensation, but will be reimbursed for travel, including subsistence, and other necessary expenses incurred in the performance of their duties in the same manner as persons employed intermittently in Government Service under 5 U.S.C. 5703;

(b) A member may not participate in matters that will directly affect, or appear to affect, the financial interests of the member or the member's spouse or minor children, unless authorized by the appropriate ethics official. Compensation from employment does not constitute a financial interest of the member so long as the matter before the committee will not have a special or distinct effect on the member or the member's employer, other than as part of a class. The provisions of this paragraph do not affect any other statutory or regulatory ethical obligations to which a member may be subject;

(c) The Advisory Board meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Assistant Secretary—Indian Affairs or the DFO; and

(d) All Advisory Board meetings are open to the public in accordance with

the Federal Advisory Committee Act regulations.

4. Nomination Information

(a) Nominations are requested from individuals, organizations, and federally recognized tribes, as well as from State Directors of Special Education (within the 23 states in which BIE-funded schools are located) concerned with the education of Indian children with disabilities as described above;

(b) Nominees should have expertise and knowledge of the issues and/or needs of American Indian children with disabilities. Such knowledge and expertise are needed to provide advice and recommendations to the BIE regarding the needs of American Indian children with disabilities;

(c) A summary of the candidates' qualifications (resume or curriculum vitae) must be included with a completed nomination application form, which is located on the Bureau of Indian Education website. Nominees must have the ability to attend Advisory Board meetings, carry out Advisory Board assignments, participate in teleconference calls, and work in groups; and

(d) The Department of the Interior is committed to equal opportunities in the workplace and seeks diverse Committee membership, which is bound by Indian Preference Act of 1990 (25 U.S.C. 472).

5. Basis for Nominations

If you wish to nominate someone for appointment to the Advisory Board, please do not make the nomination until the person has agreed to have his or her name submitted to the BIE for this purpose. A person can also self-nominate.

6. Nomination Application

Please submit a complete application form and a copy of the nominee's resume or curriculum vitae to the DFO by Friday, March 18, 2022. The nomination application form can be found on the BIE website at *https://www.bie.edu/landing-page/special-education.*

7. Information Collection

This collection of information is authorized by OMB Control Number 1076–0179, ''Solicitation of Nominations for the Advisory Board for Exceptional Children'' which expires June 30, 2024.

(Authority: 5 U.S.C. Appendix 5; 20 U.S.C. 1400 *et seq.*).

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–03028 Filed 2–11–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[223 LLUT925000 L14400000.BJ0000 LXSSJ0730000 241A]

Filing of Plats of Survey; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of survey of the lands described below in the BLM Utah State Office, Salt Lake City, Utah, 30 calendar days from the date of this publication.

DATES: A person or party who wishes to protest one or more of the plats of survey must file a written notice by March 16, 2022.

ADDRESSES: Written notices protesting a survey must be sent to the Utah State Director, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345.

FOR FURTHER INFORMATION CONTACT: Matthew J. Kurchinski, Chief Cadastral Surveyor for Utah, BLM, Branch of Geographic Sciences, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345, telephone (801) 539–4139, or email *mkurchin@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the BLM's Price Field Office and are necessary for the management of these lands. The lands surveyed are represented on the following plats of survey:

Salt Lake Meridian, Utah

T. 22 S., R. 6 E., Group No. 1444, accepted December 28, 2021.
T. 17 S., R. 9 E., Group No. 1431, accepted December 28, 2021.
T. 19 S., R. 10 E., Group No. 1433, accepted December 30, 2021.
T. 26 S., R. 10 E., Group No. 1446, accepted December 14, 2021.
T. 25 S., R. 11 E., Group No. 1446, accepted December 14, 2021.
T. 26 S., R. 11 E., Group No. 1446, accepted December 14, 2021.
T. 19 S., R. 14 E., Group No. 1445, accepted December 28, 2021.

Copies of the plats of survey and related field notes will be placed in the open files. They will be available for public review in the BLM Utah State Office as a matter of information.

A person or party who wishes to protest one or more of the above surveys must file a written notice within 30 calendar days from the date of this publication with the Utah State Director, BLM, at the address listed in the **ADDRESSES** section, stating they wish to protest. The notice of protest must identify the plat(s) of survey the person or party wishes to protest. A statement of reasons for the protest, if not filed with the notice of protest, must be filed with the Utah State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. The plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Matthew J. Kurchinski,

Chief Cadastral Surveyor for Utah.

[FR Doc. 2022–03093 Filed 2–11–22; 8:45 am]

BILLING CODE 4310–HQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS08000.L71220000.EU0000. LVTFCX5C6400.15X; COC–76543]

Notice of Realty Action: Direct Sale of Public Lands in Mesa County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a noncompetitive (direct) sale of 48.53 acres of public land in Mesa County, Colorado, to Merial I. Currier of Currier Gravel Pit Inc., to resolve an inadvertent and unauthorized use of public lands.

The sale would be subject to applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), and BLM land sale regulations. The proponent would purchase the parcel for the appraised fair market value of the land, which is $80,000.

DATES: Submit written comments regarding this direct sale by March 31, 2022.

ADDRESSES: Mail written comments to Greg Wolfgang, Field Manager, BLM, Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506 or by email to *BLM_CO_GJ_Public_Comments@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Ashton Johnston, Realty Specialist, by email to *ajohnston@blm.gov* or by phone to (970) 244–3028. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Services (FRS) at (800) 877–8339 during normal business hours to contact Ashton Johnston. 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: In accordance with 43 CFR 2720.0–6, only the surface estate of the lands would be conveyed in the sale, and the United States would retain the mineral estate, including sand and gravel resources. The BLM will consider a direct sale of the following described lands in accordance with Section 203 of FLPMA (43 U.S.C. 1713):

Sixth Principal Meridian, Colorado

T. 9 S., R. 93 W.,
Sec. 12, lots 1 and 2.
The area aggregates 48.53 acres.

The sale conforms to the BLM Grand Junction Resource Management Plan (RMP), approved August 2015. The lands are identified as appropriate for disposal based on the following criterion stated on pages 174–175 of the RMP under Lands & Realty Allowable Use 7: ''Isolated parcels that are small or so located as to make effective and efficient management impractical.''

The BLM considered the criteria for disposal found in Sec. 203(a)(1) of FLPMA, which states that ''such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency.'' The lands were determined to be suitable for direct sale consistent with 43 CFR 2711.3–3(a)(4), which states that ''The adjoining ownership pattern and access indicate a direct sale is appropriate.''

In conformance with the National Environmental Policy Act, the BLM prepared a site-specific Environmental Assessment (EA) (DOI–BLM–CO–S080–2018–0001–EA) for this proposed action, available online at *https://go.usa.gov/xw8yk.* Based on the EA, the BLM issued a Finding of No Significant Impact and Decision Record on January 7, 2020, to conduct the sale of the lands. Publication of this notice in the **Federal Register** will segregate the earlier-described lands from all forms of appropriation under the public land laws, including the mining laws, except for the sale under Section 203 of the FLPMA. The segregation will terminate automatically upon issuance of a patent or on February 14, 2024, whichever occurs first.

If issued, the patent will include the following terms, covenants, conditions, and reservations:

1. A mineral reservation to the United States for all minerals;

2. A reservation to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

3. Valid existing rights of record;

4. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands; and

5. Additional terms and conditions that the authorized officer deems appropriate.

The EA, appraisal, maps, and Environmental Site Assessment are available for review during business hours Monday through Friday at the Grand Junction Field Office, except during federally recognized holidays. Interested parties may submit written comments concerning the sale, including notification of any encumbrances or other claims related to the parcels, by either of the methods identified in the **ADDRESSES** section earlier.

The BLM Colorado State Director or other authorized official of the Department of the Interior (DOI) will review adverse comments regarding the sale of the parcels and may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely objections, this realty action will become DOI's final determination.

In addition to publication in the **Federal Register**, the BLM will publish this notice in the *Grand Junction Daily Sentinel* newspaper once a week for 3 consecutive weeks.

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: 43 CFR 2711.1–2.)

Stephanie Connolly,

Acting BLM Colorado State Director.

[FR Doc. 2022–03015 Filed 2–11–22; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRHP–NPS0032637; PPWOCRAD00 PPMRSCR1Y.Y00000 PX.XCR21AACR.00.1 (222); OMB Control Number 1024–NEW]

Agency Information Collection Activities; African American Civil Rights Network Application

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 we, the National Park Service (NPS), are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before April 15, 2022.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, NPS Information Collection Clearance Officer, 12201 Sunrise Valley Drive, (MS 242), Reston, VA 20192; or by email to *phadrea_ponds@nps.gov.* Please reference Office of Management and Budget (OMB) Control Number 1024–NEW (AACRN) in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kelly Spradley-Kurowski by email at *kelly_spradley-kurowski@nps.gov,* or by telephone at 202–924–4969 (voicemail only). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it

displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are 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.

(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. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The African American Civil Rights Network (AACRN or Network) was created with the passage of the African American Civil Rights Network Act of 2017 (Pub. L. 115–104) to recognize the importance of the African American Civil Rights movement and the sacrifices made by the people who fought against discrimination and segregation. The National Park Service (NPS), is authorized to coordinate and facilitate federal and non-federal activities to commemorate, honor, and interpret the history of the African American civil rights movement from 1939 through 1968. The activities must have a direct and verifiable connection to the African American Civil Rights movement. Sites, facilities, programs, or properties applying for inclusion must complete and submit the AACRN application to nominate properties, facilities, and programs to the Network. The NPS will use the application to determine eligibility based upon clear, convincing, and well-documented evidence of historical association to the African American civil rights movement. The purpose of this request is for approval of an electronic fillable-fileable AACRN application. Fillable-fileable forms will have pre-populated responses that will eliminate guesswork, improve accuracy, and reduce respondent burden. The on-line submission process to nominate properties and programs will allow faster completion and processing times. Submissions will be available in real-time allowing program administrators direct access as needed.

Title of Collection: African American Civil Rights Network Application.

OMB Control Number: 1024–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: General Public, governmental and nongovernmental entities applying for inclusion in the Network.

Total Estimated Number of Annual Respondents: 50.

Estimated Completion Time per Response: 30 minutes.

Total Estimated Number of Annual Burden Hours: 25 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor nor is a person is 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.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2022–03014 Filed 2–11–22; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Barcode Scanners, Mobile Computers with Barcode Scanning Capabilities, Scan Engines, Components Thereof, and Products Containing the Same, DN 3604;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (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 United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.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 has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Zebra Technologies Corporation and Symbol Technologies, LLC on February 7, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain barcode scanners, mobile computers with barcode scanning capabilities, scan engines, components thereof, and products containing the same. The complainant names as respondents: Honeywell International Inc. of Charlotte, NC; and Hand Held Products,

Inc. of Charlotte, NC. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j). Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3604'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). 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. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 8, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–03010 Filed 2–11–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 02–22]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

TIME AND DATE: Wednesday, February 23, 2022, at 10:00 a.m. EST.

PLACE: This meeting will be held by teleconference. There will be no physical meeting place.

STATUS: Open. Members of the public who wish to observe the meeting via teleconference should contact Patricia M. Hall, Foreign Claims Settlement Commission, Tele: (202) 616–6975, two business days in advance of the meeting. Individuals will be given call-in information upon notice of attendance to the Commission.

MATTERS TO BE CONSIDERED: 10:00 a.m.—Issuance of Proposed Decisions under the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328.

CONTACT PERSON FOR MORE INFORMATION: Requests for information, advance notices of intention to observe an open meeting, and requests for teleconference dial-in information may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 441 G St NW, Room 6234, Washington, DC 20579. Telephone: (202) 616–6975.

Jeremy R. LaFrancois,

Chief Administrative Counsel.

[FR Doc. 2022–03157 Filed 2–10–22; 11:15 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Z–RIN 1210–ZA30

Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Request for Information.

SUMMARY: The Employee Benefits Security Administration (EBSA) is issuing this Request for Information (RFI), in furtherance of the Executive Order on Climate-Related Financial Risk, to solicit public input on EBSA's future work relating to retirement savings and climate-related financial risk. EBSA's efforts will focus on agency actions that can be taken under the Employee Retirement Income Security Act of 1974 (ERISA), the Federal Employees' Retirement System Act of 1986 (FERSA), and any other relevant laws, to protect the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk.

DATES: Submit written comments on or before May 16, 2022.

ADDRESSES: You may submit written comments, identified by Z–RIN 1210–ZA30, to either of the following addresses:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: Request for Information on Possible Agency Actions.

Instructions: All submissions received must include the agency name and Regulatory Identifier Number (Z–RIN). Persons submitting comments electronically are encouraged not to submit paper copies. Comments will be available to the public, without charge, online at *www.regulations.gov* and *www.dol.gov/agencies/ebsa* and at the Public Disclosure Room, Employee Benefits Security Administration, Suite N–1513, 200 Constitution Avenue NW, Washington, DC 20210. Warning: Do not include any personally identifiable or confidential business information that you do not want publicly disclosed. Comments are public records posted on the internet as received and can be retrieved by most internet search engines.

FOR FURTHER INFORMATION CONTACT: For information pertaining to this Request for Information, contact Fred Wong or Colleen Brisport Sequeda, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

A. Climate-Related Financial Risk

On May 20, 2021, President Biden signed Executive Order 14030 on Climate-Related Financial Risks (the Order). The Order outlined a whole-of-government approach to mitigating climate-related financial risk and to safeguarding the financial security of America's workers, families, and businesses from the threat that climate change poses to their life savings. Section 4 of the Order directed the Department of Labor (Department) to ensure the resilience of workers' life savings and pensions through a series of actions.

Those actions included directing the Department to ''consider publishing, by September 2021, for notice and comment a proposed rule to suspend, revise, or rescind 'Financial Factors in Selecting Plan Investments,' 85 FR 72846 (November 13, 2020), and 'Fiduciary Duties Regarding Proxy Voting and Shareholder Rights,' 85 FR 81658 (December 16, 2020).'' Pursuant to the Order, on October 14, 2021, the Department proposed a rule under ERISA to empower plan fiduciaries to safeguard the savings of America's workers by making it clear that fiduciaries may consider climate change and other ESG factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations.

In addition, on October 15, 2021, the Administration released a comprehensive, government-wide strategy to measure, disclose, manage, and mitigate the systemic risks climate change poses to American families, businesses, and the economy in the form of a report entitled ''A Roadmap to Build a Climate-Resilient Economy.'' [1] The report points out that climate change poses serious and systemic risks to the U.S. economy and financial system. As outlined in this report, the U.S. government is using all of its tools to properly account for and mitigate climate change-related financial and economic risks, as climate impacts are already affecting American jobs, homes, families' hard-earned savings, and businesses. In a report issued on October 21, 2021, the Financial Stability Oversight Council (FSOC) identifies climate change as an emerging threat to U.S. financial stability.[2] That report includes recommendations to U.S. financial regulators laying out actions to identify and address climate-related risks to the financial system and promote the resilience of the financial system to those risks.

This RFI is intended to further the goals of the Order and the Roadmap by assisting the Department in identifying steps that it can take under applicable law to further protect the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk.

B. Employee Retirement Income Security Act of 1974

The Employee Retirement Income Security Act of 1974, as amended (ERISA), covers retirement plans (including traditional defined benefit pension plans and individual account defined contribution plans such as 401(k) plans) and welfare benefit plans (*e.g.,* employment based medical and hospitalization benefits, apprenticeship plans, and other plans described in section 3(1) of Title I) of most private-sector employers. The goal of Title I of ERISA is to protect the interests of participants and their beneficiaries in employee benefit plans. Plan sponsors must design and administer their plans in accordance with ERISA. Among other things, Title I of ERISA requires that sponsors of private employee benefit plans provide participants and beneficiaries with adequate information regarding their plans. Also, those individuals who manage plans (and other fiduciaries) must meet certain standards of conduct, derived from the common law of trusts and made applicable (with certain modifications) to all fiduciaries. The law also contains detailed provisions for reporting to the government and disclosure to participants. Furthermore, there are civil enforcement provisions aimed at assuring that plan funds are protected and that participants who qualify receive their benefits. Title II of ERISA

[1] *See* FACT SHEET: Biden Administration Roadmap to Build an Economy Resilient to Climate Change Impacts | The White House (available at *https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/15/fact-sheet-biden-administration-roadmap-to-build-an-economy-resilient-to-climate-change-impacts/*) (Oct. 14, 2021).

[2] *See https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf.*

contains standards that must be met by employee retirement benefit plans in order to qualify for favorable tax treatment.

The administration of ERISA is shared among the U.S. Department of Labor (Department), the Department of the Treasury and the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC). The Department administers Title I of ERISA, which contains rules for reporting and disclosure, vesting, participation, funding, fiduciary conduct, and civil enforcement. The IRS administers Title II of ERISA, which was codified in the Internal Revenue Code (Code) and is periodically amended to establish requirements that must be met by employee retirement benefit plans to qualify for favorable tax treatment. Some of the Code provisions are parallel to some of the Title I rules. Title III is concerned with jurisdictional matters and with coordination of enforcement and regulatory activities by the Department and IRS. Title IV covers the insurance program for defined benefit pension plans and is administered by the PBGC.

Prior to a 1978 reorganization, there was some overlapping responsibility for administration of the parallel provisions of Title I of ERISA and the tax code by the Department and the IRS, respectively.[3] As a result of this reorganization, the Department has primary responsibility for reporting, disclosure, and fiduciary requirements; and the IRS has primary responsibility for participation, vesting, and funding issues. However, the Department continues to have a role in those areas and works with the IRS on matters that materially affect the rights of participants, regardless of primary responsibility.

C. Federal Employees Retirement System Act of 1986

The Federal Employees' Retirement System Act of 1986 (Pub. L. 99–335) (FERSA) established the Federal Employees' Retirement System (FERS) for Federal employees, postal employees, and Members of Congress. The FERS has three elements: (1) Social Security; (2) the FERS basic retirement annuity and FERS supplement; and (3) the Thrift Savings Plan (TSP), which is a tax-deferred retirement savings plan similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Code. FERSA also established in the executive branch the Federal Retirement Thrift Investment Board (FRTIB) to be responsible for administering the TSP. The Department exercises specified statutory authority under FERSA. For example, EBSA is charged with establishing a program to carry out audits to determine the level of TSP compliance with FERSA requirements relating to fiduciary responsibilities. In addition, FERSA also provides the Department with authority to prescribe regulations regarding fiduciary responsibility and prohibited transaction provisions to carry out 5 U.S.C. 8477.

D. Executive Orders

The President's May 20, 2021, Executive Order 14030 on Climate-Related Financial Risk (the Order) states that the ''intensifying impacts of climate change present physical risks to assets, publicly traded securities, private investments, and companies,'' and that ''the global shift away from carbon-intensive energy sources and industrial processes presents transition risks to many companies, communities, and workers.'' [4] Furthermore, the Order points out that the failure to appropriately and adequately account for and measure these physical and transition risks threatens the competitiveness of U.S. companies and markets, and the life savings and pensions of U.S. workers and families. The Order sets forth the policy of the Administration to advance disclosure of climate-related financial risk (consistent with Executive Order 13707 of September 15, 2015), and to act to mitigate that risk and its drivers.

Section 4(a) of the Order directs the Department to identify agency actions that can be taken under ERISA, FERSA, and any other relevant laws to protect the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk.[5]

The May 20 Executive Order complements the President's January 20, 2021 Executive Order 13990 on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, which acknowledges the Nation's ''abiding commitment to empower our workers and communities; promote and protect our public health and the environment,'' and sets forth the policy of the Administration to listen to the science, improve public health and protect our environment, and bolster resilience to the impacts of climate change.[6]

This RFI is limited to the matters within the scope of section 4(a) of Executive Order 14030, as addressed in the Request for Comments section of this document. This RFI does not solicit comments on recently proposed amendments to the Department's Investment Duties throughout regulation (29 CFR 2550. 404a–1) published on October 14, 2021.[7] That proposal was published after the Department, pursuant to the two Executive Orders,[8] conducted a review of final rules adopted in late 2020 that amended the Investment Duties regulation and created uncertainty as to whether a fiduciary may consider climate change and other environmental, social, or governance (ESG) factors in selecting investments and investment courses of action, and exercising shareholder rights, such as proxy voting.[9] The comment period on that proposal ended December 13, 2021.

II. Request for Comments

General

1. Please provide your views on how EBSA should address and implement the action items set forth for EBSA in Executive Order 14030 on Climate-Related Financial Risk. Specifically, what agency actions can be taken under ERISA, FERSA, and any other relevant laws to protect the lifesavings and pensions of U.S. workers and families from the threats of climate-related financial risk?

2. Executive Order 14030 uses the phrase ''climate-related financial risk'' to encompass a wide variety of risks under two broad categories: Physical risks and transition risks. What are the most significant climate-related financial risks to retirement savings and why?

Data Collection Regarding ERISA-Covered Plans

3. Should EBSA collect data on climate-related financial risk for plans? If so, please specify with as much precision as possible what information EBSA could and should collect, potential sources of such information, as well as how EBSA should collect it.

4. Should EBSA use Form 5500 Annual Return/Report (''Form 5500'') to collect data on climate-related financial risk to pension plans? For example, EBSA could add questions to the Form 5500 to collect data on climate-related financial risks to retirement plans and

[3] 5 U.S.C. App. (2018).

[4] 86 FR 27967 (May 25, 2021).

[5] *Id* at Section 4(a).

[6] 86 FR 7037 (January 25, 2021).

[7] 86 FR 57272 (October 14, 2021).

[8] Executive Order 14030 Section 4(b) and Executive Order 13990 Section 2.

[9] *See* ''Financial Factors in Selecting Plan Investments,'' 85 FR 72846 (November 13, 2020), and ''Fiduciary Duties Regarding Proxy Voting and Shareholder Rights,'' 85 FR 81658 (December 16, 2020).

their service providers. For instance, the Form 5500 could try to collect information about whether and how plan investment policy statements specifically address climate-related financial risk, whether service providers disclose or meet metrics related to such financial risks, and whether and how plans have factored climate-related financial risk into their analysis of individual investments or investment courses of action. Similarly, the Form 5500 could try to collect data on whether, and how, plan fiduciaries voted on proxy proposals involving climate-related financial risk. If you think EBSA should use the Form 5500 to collect this, or similar, information, please specify the data that should be collected, how it should be presented as part of the Form 5500, and how collecting that data or information would help protect the life savings and pensions of U.S. workers and families from the threats of climate-related financial risk.[10]

5. Other than the Form 5500, are there other methods of collecting data on climate-related financial risks to plans that EBSA should consider? For instance, should the Department conduct an information request/survey on plan sponsor or employee awareness of such risks, and if so, should that information request categorize the information based on plan size, *e.g.,* large plans versus small plans, or segmented in an other way?

6. Should administrators of ERISA plans be required to publicly report on the steps they take to manage climate-related financial risk and the results and outcomes of any such steps taken, in a form that is more easily accessible to the public, and timelier, than the Form 5500? If so, what alternative to the Form 5500 could be used for such a report, how should this report be compiled, what should be the contents, and how should it be made available to the public?

ERISA Fiduciary Issues

7. Changes in the financial markets, particularly an increased number of metrics and tools allowing for additional analyses of investments, give ERISA plan fiduciaries more information on which to make decisions on climate-related financial risk factors in evaluating the merits of competing investment choices. Some private sector sources are developing structured ESG research data for evaluating corporate performance. What are the best sources of information for plan fiduciaries to utilize in evaluating such risks with respect to plan investments? Are there difficulties or challenges in obtaining such information or comparing information from different sources? If so, what is the source or sources of those difficulties or challenges, and what are the solutions?

8. Do any guaranteed lifetime income products (*e.g.,* annuities) help individuals efficiently mitigate the effects of at least some climate-related financial risk? If so, what mitigation measures do these products take? Would such products constitute a safe and efficient strategy to transfer climate-related financial risk from the participant/employee to the insurer/guarantor? If so, should EBSA take steps to facilitate the inclusion of these products in ERISA-covered defined contribution plans? If so, what steps should be taken and what products should be considered, and why? Are there climate-focused annuities that plans could offer?

FERSA

9. 5 U.S.C. 8438 defines the specific types of investments that are permissible under the TSP. Given the scope of 5 U.S.C. 8438, what specific actions relating to FRTIB's consideration of ESG factors, including climate-related financial risks, when making investment decisions could and should EBSA take, consistent with EBSA's authority and role under FERSA, and why? [11]

10. The Executive Director and the members of the FRTIB are TSP fiduciaries, and are subject to the fiduciary responsibility and prohibited transaction provisions set forth at 5 U.S.C. 8477.[12] FERSA requires the Department to, among other things, establish a program to carry out audits to determine the level of compliance with these standards and obligations.[13] Those responsibilities have been delegated to EBSA, which implements a risk-based audit program that identifies risks and vulnerabilities, assesses the likelihood of harm from these risks and vulnerabilities, and considers the magnitude of potential damage associated with the various risks and vulnerabilities. FERSA also provides the Department with specific authority to prescribe regulations to carry out 5 U.S.C. 8477.[14] How can EBSA best conduct an audit program, consistent with its authority and role under FERSA, that identifies and assesses the risks and vulnerabilities posed to TSP by climate change? What types of questions should the audit program answer? What data sources should EBSA use to answer them?

11. What policies and practices do managers of sovereign wealth funds or public pensions, in the United States or overseas, follow to help mitigate climate-related financial risks, and are these policies and practices significantly different from the policies and practices of managers of ERISA-covered plans? Which of these policies and practices could the Department or the FRTIB incorporate into their obligations under FERSA?

12. A 2021 GAO Report recommended that FRTIB conduct a rigorous audit of TSP's exposure to climate-related financial risk. What data, if any, should FRTIB collect on TSP's exposure to climate-related financial risk? What types of data, if any, should it collect from asset managers regarding climate-related financial risk?

13. What information, if any, should the FRTIB collect on asset managers' policies, including their consideration of climate change and ESG factors in their stewardship and investment decision-making, and how their actual behavior corresponds to their stated policies? How could this data inform FRTIB's own decision-making and management of TSP?

14. What actions, if any, should the TSP's asset managers, take to incorporate climate-related financial risk, consistent with FERSA's terms and their duty of prudence?

15. The TSP's fund offerings rely on passive index investing. Is there evidence that the indices relied upon by the TSP systematically underestimate or overestimate the risks associated with climate change, or that the market fails to appropriately factor in the risks associated with climate change in pricing publicly-traded assets?

16. What analysis could FRTIB undertake to inform whether other possible indices may better take into account the risks posed by climate change? What analysis could FRTIB perform to weigh this feature against other characteristics of these indices such as their fees? What actions could FRTIB take to consider climate change and other material ESG factors in directing investment selection decisions for the TSP, consistent with FERSA's statutory requirement that indices be ''commonly recognized'' and a ''reasonably complete representation'' of the market?

[10] The Department solicited comments on this topic in 2016, but received very limited information. *See* 81 FR 47534, 47564 (July 21, 2016). This RFI is revisiting the question in light of section 4(a) of Executive Order 14030.

[11] 5 U.S.C. 8438(f).

[12] 5 U.S.C. 8477(a)(3), (b) and (c).

[13] 5 U.S.C. 8477(g)(1).

[14] 5 U.S.C. 8477(f).

17. Other than investments, are there any incentives that could be offered to encourage more effective incorporation of climate-related financial risks into TSP, using the regulatory authority delegated to the Secretary or other administrative authorities under FERSA?

18. Some material suggests that when plan participants know their plan offers ESG options, many will invest in them. *See, e.g., ESG Options in 401(k) Plans Could Lead to Higher Contribution Rates According to Schroders Survey,* (May 13, 2021), available at *https://www.schroders.com/en/us/private-investor/media-centre/retirement-survey-2021-esg/* (when plan participants know their plan offers ESG options, 90% invest in them). In a 2017 survey of TSP participants, twenty-two percent of respondents said they most want the TSP to offer a broader range of investment options. *See Federal Retirement Thrift Investment Board: 2017 Participant Satisfaction Survey,* P. 11, fig. 8 (2017) available at *https://www.frtib.gov/ReadingRoom/SurveysPart/TSP-Survey-Results-2017.pdf.* Are there additional data suggesting, measuring, or otherwise indicating whether federal employees' prefer ESG-focused investments?

Miscellaneous

19. Are there any legal or regulatory impediments that hinder managers of investments held in savings and retirement arrangements not covered by ERISA, such as IRAs, from taking steps to mitigate against climate-related financial risks to those investments? Does the absence of prudence and loyalty obligations with respect to these arrangements leave them vulnerable to climate-related financial risks?

20. Should EBSA sponsor and publish research to improve data and analytics that ERISA plan fiduciaries could use to evaluate climate-related financial risks? If so, what research subjects should EBSA sponsor?

21. Is there a need to educate participants, especially those responsible for making their own investment decisions in participant-directed individual account plans, about climate-related financial risks? If yes, what role, if any, should EBSA play in sponsoring and providing such education? In addition, what efforts, if any, should EBSA make to coordinate with the Securities and Exchange Commission on its efforts to inform and protect investors, especially individual investors such as plan participants, from potentially misleading statements about fund adherence to policies that address climate-related financial risk (often referred to as ''greenwashing'')? [15]

22. Is there a need to educate owners of IRAs about climate-related financial risks? If yes, what role, if any, should EBSA play in assisting the IRS or States (for those having state automatic-IRA arrangements) in sponsoring and providing such education?

Signed at Washington, DC, this 4th day of February, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2022–02798 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–29–P

[15] *See, e.g.,* SEC Division of Examination Risk Alert *https://www.sec.gov/files/esg-risk-alert.pdf.*

DEPARTMENT OF LABOR

[Docket No: DOL–2021–00##]

Privacy Act of 1974; System of Records

AGENCY: Employment and Training Administration (ETA).

ACTION: Notice of a modified system of records.

SUMMARY: As required by the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular No. A–108, this modified Privacy Act System of Records is titled Foreign Labor Certification System and Employer Application Case Files, DOL/ETA–7. The system contains information provided by members of the public (Employers) who file labor certification applications, labor condition applications for permanent or temporary employment of foreign workers; employers who file requests for prevailing wage determinations that may support an application for temporary and permanent labor certification; agents and foreign labor recruiters whom employers may engage in the recruitment of prospective H–2B workers with regard to labor certification applications filed in the H–2B temporary employment program and all persons or entities hired by or working for such recruiters or agents and any agents or employees of those persons or entities.

DATES:

Comment Dates: We will consider comments that we receive on or before March 16, 2022.

Applicable date: This notice is applicable upon publication, subject to a 30-day review and comment period for the routine uses.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail, hand delivery, or courier:* 200 Constitution Avenue NW, N–5311, Washington, DC. In your comment, specify Docket ID DOL–2021–00##.
- *Federal mailbox: https://dol.gov/privacy.*

All comments will be made public by DOL and will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: To submit general questions about the system, contact Brian Pasternak by telephone at 202–513–7350, or by email at *Pasternak.Brian@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL is modifying a system of records, DOL/ETA–7, subject to the Privacy Act of 1974, 5 U.S.C. 552a. The purpose of this system of records is to house information provided by employers who file labor certification application; who request prevailing wage determinations that may support temporary or permanent labor certifications; agents and foreign labor recruiters whom employers may engage in the recruitment of prospective H–2B workers with regard to labor certification applications filed employment program, and all persons or entities hired by or working for such recruiters or agents and any agents, or employees of those persons or entities. The foreign worker is identified on applications for permanent employment certification, they are not identified nor listed on applications for temporary employment certification, prevailing wage determination, nor labor condition applications.

The Department now proposes a change to an existing routine use to include disclosures to the Department of Justice (DOJ), Civil Rights Division, among the list of participating agencies with which the Department may share information from the system in connection with administering and enforcing related immigration laws and regulations. In addition, the Department is eliminating the term ''alien'' from the title and description of the system of records notice. The Civil Rights Division's Immigrant and Employee Rights Section (IER) is responsible for enforcing the anti-discrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b.

Privacy Act

As required by the Privacy Act (specifically 5 U.S.C. 552a(r)) and implemented by the Office of Management and Budget (OMB) Circular A–108, DOL has provided a report of this system of records to the Office of Information and Regulatory Affairs, Office of Management and Budget; the Chairman, Committee on Government Reform and Oversight, House of Representatives; and the Chairman, Committee on Governmental Affairs, United States Senate.

SYSTEM NAME AND NUMBER:

Foreign Labor Certification System and Employer Application Case Files, DOL/ETA–7.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The U.S. Department of Labor (DOL) Office of Employment and Training Administration (ETA) owns the Foreign Labor Certification System and Employer Application Case Files records system, which is housed in secure alternative worksites, including employees' homes, within continental United States geographically satellite offices. All appropriate safeguards will be taken at these sites.

SYSTEM MANAGER(S):

Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, N–5311, 200 Constitution Ave. NW, Washington, DC 20210.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1184(c), 1182(m) and (n), 1182(a)(5)(a), 1188, and 1288. Section 122 of Public Law 101–649. 8 CFR 214.2(h). 20 CFR 655 Subpart A. 20 CFR 655.9.

PURPOSE(S) OF THE SYSTEM:

To capture and maintain a record of applicants and actions taken by ETA on requests to employ foreign workers and requests for prevailing wage determinations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Foreign Labor Certification System and Employer Application Case Files, DOL/ETA–7 contains records related to employers of foreign workers for both part-time and permanent employment. The employers who file requests for prevailing wage determinations that may support an application for temporary and permanent labor certification; agents and foreign labor recruiters whom employers may engage in the recruitment of prospective H–2B workers with regard to labor certification applications filed in the H–2B temporary employment program and all persons or entities hired by or working for such recruiters or agents and any agents or employees of those persons or entities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employers' names, addresses, type, and size of businesses to include annual gross revenue and proof of insurance coverage, production data, number of workers needed in certain cases, offer of employment terms to known or unknown beneficiaries, and background and qualifications of certain beneficiaries, along with resumes and applications of U.S. workers, employer provided source wage documents and surveys, names of agents and recruiters whom employers may engage in the recruitment of prospective H–2B workers, as well as the identity and location of all persons or entities hired by or working for such recruiters or agents, and any of the agents or employees of those persons and entities, engaged in recruitment of prospective workers for the H–2B job opportunities offered by the employer.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from labor certification applications, labor condition applications, and prevailing wage determination requests completed by employers. Certain information is furnished by named beneficiaries of permanent labor certification applications, State Workforce Agencies, and the resumes and applications of U.S. workers. Additional information is obtained from employer-provided surveys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, and universal routine uses previously published and listed at *https://www.dol.gov/agencies/sol/privacy/intro,* 81 FR 25765, 25775 (April 29, 2016), information in this system may be disclosed outside DOL as a routine pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To disclose the records to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the agency collected the records.

b. To disclose the records in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

c. When a record on its face, or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the agency determines by careful review that the records or information are both relevant and necessary to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity, and that the use of such records or information is for a purpose that is compatible with the purposes for which the agency collected the records.

d. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

e. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted pursuant to 44 U.S.C. 2904 and 2906.

f. To disclose to contractors, employees of contractors, consultants, grantees, and volunteers who have been engaged to assist the agency in the

performance of or working on a contract, service, grant, cooperative agreement or other activity or service for the Federal Government.

Note: Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a; see also 5 U.S.C. 552a(m).

g. To the parent locator service of the Department of Health and Human Services or to other authorized persons defined by Public Law 93–647 (42 U.S.C. 653(c)) the name and current address of an individual for the purpose of locating a parent who is not paying required child support.

h. To any source from which information is requested in the course of a law enforcement or grievance investigation, or in the course of an investigation concerning retention of an employee or other personnel action, the retention of a security clearance, the letting of a contract, the retention of a grant, or the retention of any other benefit, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

i. To a Federal, State, local, foreign, tribal, or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the granting or retention of a security clearance, the letting of a contract, a suspension or debarment determination or the issuance or retention of a license, grant, or other benefit.

j. To the Office of Management and Budget during the coordination and clearance process in connection with legislative matters.

k. To the Department of the Treasury, and a debt collection agency with which the United States has contracted for collection services, to recover debts owed to the United States.

l. To the news media and the public when (1) the matter under investigation has become public knowledge, (2) the Solicitor of Labor determines that disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by this system, or (3) the Solicitor of Labor determines that there exists a legitimate public interest in the disclosure of the information, provided the Solicitor of Labor determines in any of these situations that the public interest in disclosure of specific information in the context of a particular case outweighs the resulting invasion of personal privacy.

m. To disclose information to a State or local government entity which has the legal authority to make decisions concerning the issuance, retention or revocation of licenses, certifications or registrations required to practice law or a health care profession, when requested in writing by an investigator or supervisory official of the licensing entity for the purpose of making a decision concerning the issuance, retention or revocation of the license, certification or registration of a named attorney or health care professional.

n. To disclose information to the United States Department of Justice and/or the Federal Bureau of Investigation for inclusion in the National Instant Criminal Background Check System (NICS), pursuant to the reporting requirements of the Brady Handgun Violence Prevention Act, as amended by the NICS Improvement Amendments Act of 2007.

o. To appropriate agencies, entities, and persons when (1) the DOL suspects or confirms a breach of the System of Records; (2) the DOL determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DOL (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DOL's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

p. To another Federal agency or Federal entity, when the DOL 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.

q. To participating agencies within DOL and externally that participate within the case file development in processing labor certification applications, labor condition applications, and prevailing wage determinations released to the employers (and representatives) filing such applications; to review ETA actions in connection with appeals of denials or other wage-related final determinations before the Office of Administrative Law Judges (OALJ) or Federal Courts; to participating agencies such as the DOL Office of Inspector General (OIG), DOL Wage and Hour Division (WHD), Department of Homeland Security (DHS), United States Citizenship and Immigration Services, Department of State, and Department of Justice (DOJ), Civil Rights Division in connection with administering and enforcing related immigration laws and regulations. Records may also be released to named beneficiaries or their representatives, and third party requests under the under the Freedom of Information Act.

r. To the public for the same purposes stated above (Routine Use q.), including current or prospective H–2B workers or their employer's representatives, to assist in the effective use of the H–2B temporary labor certification program. The Department will maintain a publically available list of agents, recruiters and the locations of employers reported to the Department that engage/plan to engage in recruitment of prospective H–2B workers/opportunities offered by the employer.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records in this system of records are stored on security measure protected (for example, e-authentication, password, restricted access protocol, etc.) databases, electronically on e-media devices (*e.g.,* computer hard drive, magnetic disc, tape, digital media, CD, DVD, etc.). Paper copies of records are stored within secured or locked facilities.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by an individual's case number, employer name, name, beneficiary's name, agent name, recruiter name, or other third-party entity involved in the recruitment of the prospective H–2B workers as provided to the Department.

POLICIES AND PRACTICES FOR RENTENTION AND DISPOSAL OF RECORDS:

Records are maintained in file folders and DOL computer systems at applicable locations as set out above under the heading ''System Location.'' System records will be retained and disposed of after 5 years in according to DOL's records maintenance and disposition and applicable General Records Schedules (Number DAA–0369–2013–0002). Paper copies of case files that are not scanned are retained after the retention period will be transferred to Federal Records Center for duration of 5-year retention period.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system of records are safeguarded in accordance with applicable rules and policies, including all applicable DOL 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 systems containing the records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate security clearances or permissions.

Records in the system are protected from unauthorized access and misuse through a combination of administrative, technical, and physical security measures. Administrative measures include but are not limited to policies that limit system access to individuals within an agency with a legitimate business need, and regular review of security procedures and best practices to enhance security. Technical measures include but are not limited to system design that allows only role-based access to authorized personnel; required use of strong passwords that are frequently changed; and use of encryption for certain data transfers. Physical security measures include but are not limited to the use of data centers which meet government requirements for storage of sensitive data, physical security maintained in secured locations.

RECORD ACCESS PROCEDURES:

If an individual wishes to access their own data in the system after it has been submitted, that individual should consult the System Manager.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the above listed System Manager and should include the reason for contesting it and the proposed amendment to the information with supporting information to show how the record is inaccurate. A request for contesting records pertaining to an individual should contain:

- Name, and
- Any other pertinent information to help identify the file.

NOTIFICATION PROCEDURES:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to the individual from the System Manager above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The previously published versions of this SORN can be found at 81 FR 25765, 25885 (April 29, 2016), and 77 FR 1728, 1742 (January 11, 2012).

Milton Al Stewart,

Senior Agency Official for Privacy, Deputy Assistant Secretary for Operations, Office of the Assistant Secretary for Administration and Management, Department of Labor.

[FR Doc. 2022–03063 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Claims and Payment Activities

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 16, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 303(a)(6) of the Social Security Act authorizes this information collection. The ETA 5159 report provides important program information on claims taking and benefit payment activities under state/federal unemployment insurance laws. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 8, 2021 (86 FR 36161).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Claims and Payment Activities.

OMB Control Number: 1205–0010.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 2,544.

Total Estimated Annual Time Burden: 6,996 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 7, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–03065 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Distribution of Characteristics of the Insured Unemployed

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 16, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Social Security Act, Section 303(a)(6), authorizes this information collection. The Distribution of Characteristics of the Insured Unemployed is a monthly snapshot of the demographic composition of the claimant population in the Unemployment Insurance (UI) system. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 24, 2021 (86 FR 33363).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Distribution of Characteristics of the Insured Unemployed.

OMB Control Number: 1205–0009.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 636.

Total Estimated Annual Time Burden: 212 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 7, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–03064 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Older Workers Implementation and Descriptive Study, New Collection

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, the Department of Labor is soliciting comments concerning the collection of data about the Older Workers Implementation and Descriptive Study. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before April 15, 2022.

ADDRESSES: You may submit comments by either one of the following methods: *Email: ChiefEvaluationOffice@dol.gov; Mail or Courier:* Kuang-Chi Chang, Chief Evaluation Office, OASP, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Kuang-Chi Chang by email at *ChiefEvaluationOffice@dol.gov* or by phone at (202) 693–5592.

SUPPLEMENTARY INFORMATION:

I. *Background:* The US Department of Labor (DOL) Chief Evaluation Office, in collaboration with the Employment Training Administration, has funded the Urban Institute and its partner Capital Research Corporation to conduct the Older Workers Implementation and Descriptive Study (2021–2024). The purpose of this study is to examine the implementation of the Senior Community Service Employment Program (SCSEP) and other DOL workforce programs serving older workers to inform the continuous improvement of SCSEP and develop options for potential future research studies that would address gaps in the evidence base related to employment services for older workers. The overall project is comprised of three phases: (1) Knowledge development activities that

identify the evidence base and inform the project about promising approaches for serving and measuring outcomes for older workers or other target populations that share characteristics with this group. Information sources include literature review, grantee documents, program data, clarification calls with grantees, as needed, and grantee ''listening sessions'' to gain perspectives on topics of interest. (2) A rigorous Implementation Study to identify program typologies and models whose approaches, components, and service delivery could best serve older workers or populations with similar employment barriers, including innovations in implementing paid work components, outreach to the target population, supports for participants, and strategies developed during the COVID–19 pandemic and considering strategies for expanding equity. An Early Implementation component of the study will focus in a subset of grantees' experiences during and post-pandemic. Data sources include a web survey of grantees/subgrantee service providers, site visits to a subset of grantees to interview staff, community service agencies, and employer partners, and interviews with participants. (3) An evaluability assessment to develop options for potential future research and evaluation studies that address gaps in the evidence base related to employment services for older workers. Data sources include information gathered for other phases and additional clarification calls with grantees, as needed.

This **Federal Register** Notice provides the opportunity to comment on nine proposed data collection instruments that will be used in the study: SCSEP subgrantee survey; SCSEP subgrantee staff interview protocol; SCSEP grantee staff interview protocol; SCSEP host agency interview protocol; SCSEP employer partner interview protocol; SCSEP American Job Center partner interview protocol; SCSEP community organization partner interview protocol; SCSEP participant focus group protocol; and SCSEP participant interview guide.

1. *SCSEP subgrantee survey.* Includes all subgrantees (including local affiliates of national grantees) of 19 national grantees. The survey does not include the state grantees.

2. *SCSEP subgrantee staff interview protocol.* Virtual interviews with 5 subgrantee staff in each of 20 local sites of the national grantees.

3. *SCSEP host agency interview protocol.* Virtual interviews with 2 grantee staff for 15 national grantees overseeing the 20 local sites

4. *SCSEP grantee staff interview protocol.* Virtual interviews with 2 host agency staff (one leadership and one supervisory) staff person for each of 20 local sites

5. *SCSEP employer partner interview protocol.* Virtual interviews with 1 staff with employers in each of 20 local sites

6. *SCSEP American Job Center partner interview protocol.* Virtual interviews with 2 staff at American Job Centers in each of 20 local sites

7. *SCSEP community organization partner interview protocol.* Virtual interviews with 2 staff at community organization partners in each of 20 local sites

8. *SCSEP participant focus group protocol.* Includes focus groups with 7 SCSEP participants in each of the 8 local sites

9. *SCSEP participant interview guide.* Virtual interviews with 3 SCSEP participants in each of the 12 local sites.

II. *Desired Focus of Comments:* Currently, DOL is soliciting comments concerning the above data collection for the Older Workers Implementation and Descriptive Study. DOL is particularly interested in comments that do the following:

○ Evaluate whether the proposed collection of information is necessary for the proper performance functions of the agency, including whether the information will have practical utility;

○ evaluate the accuracy of the agency's burden estimate of the proposed information collection, including the validity of the methodology and assumptions;

○ enhance the quality, utility, and clarity of the information to be collected; and

○ minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology—for example, permitting electronic submissions of responses.

III. *Current Actions:* At this time, DOL is requesting clearance for the SCSEP subgrantee survey; SCSEP subgrantee staff interview protocol; SCSEP grantee staff interview protocol; SCSEP host agency interview protocol; SCSEP employer partner interview protocol; SCSEP American Job Center partner interview protocol; SCSEP community organization partner interview protocol; SCSEP participants focus group protocol; and SCSEP participant interview guide.

Type of Review: New information collection request.

OMB Control Number: xxx.

Affected Public: Program staff, program partners, and participants of the Senior Community Service Employment Program grants. Additionally, state staff, partners, and representatives of other workforce programs serving older workers.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

ESTIMATED ANNUAL BURDEN HOURS [1]

Type of instrument (form/activity)	Number of respondents	Number of responses per respondent	Total number of responses	Average burden time per response (hours)	Estimated burden hours
SCSEP subgrantee survey	[2] 164	1	164	4.0	656
SCSEP subgrantee staff interview protocol	[3] 33	1	33	2.0	66
SCSEP host agency interview protocol	[4] 13	1	13	1.5	19.5
SCSEP grantee staff interview protocol	[5] 10	1	10	1.5	15
SCSEP employer partner interview protocol	[6] 7	1	7	1.0	7
SCSEP American Job Center partner interview protocol	[7] 13	1	13	1.0	13
SCSEP community organization partner interview protocol	[8] 13	1	13	1.0	13
SCSEP participant focus group protocol	[9] 19	1	19	1.5	28.5
SCSEP participant interview guide	[10] 12	1	12	0.5	6
Total	284	.....	284	.....	824

[1] Annualized over three years of project.
[2] Assumes inclusion of all subgrantees of 19 national grantees and self-administering state and territory grantees.
[3] Assumes interviews with 5 subgrantee staff in each of the 20 local sites of the national grantees.
[4] Assumes interviews with 2 host agency staff (one leadership and one supervisory staff person) for each of the 20 local sites.

[5] Assumes interviews with 2 grantee staff for 15 national grantees overseeing the 20 local sites.
[6] Assumes interviews with 1 staff with employers in each of the 20 local sites.
[7] Assumes interviews with 2 staff at American Job Centers in each of the 20 local sites.
[8] Assumes interviews with 2 staff at community organization partners in each of the 20 local sites.
[9] Assumes focus groups with 7 SCSEP participants in 8 local sites.
[10] Assumes interviews with 3 SCSEP participants in 12 local sites.

Christina Yancey,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2022–03067 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Unemployment Insurance Trust Fund Activity

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before March 16, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 303(a)(6) of the Social Security Act (SSA) gives the Secretary of Labor the authority to require the reporting of information deemed necessary to assure state compliance with the provisions of the SSA. Under this authority, the Secretary of Labor requires the following reports to monitor state compliance with the immediate deposit and limited withdrawal standards as defined in the SSA and the Federal Unemployment Tax Act (FUTA). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 24, 2021 (86 FR 33368).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Unemployment Insurance Trust Fund Activity.

OMB Control Number: 1205–0154.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 3,498.

Total Estimated Annual Time Burden: 1,749 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: February 7, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–03066 Filed 2–11–22; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–011)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the NASA Advisory Council (NAC).

DATES: Tuesday, March 1, 2022, 1:00 p.m. to 5:00 p.m. Eastern Time; and Wednesday, March 2, 2022, 1:00 p.m. to 5:00 p.m. Eastern Time.

ADDRESSES: Meeting will be virtual only. See WebEx and audio dial-in information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia Guignard, NAC Administrative Officer, NASA Headquarters, Washington, DC 20546, *marcia.guignard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be available to the public by WebEx and audio dial-in only. WebEx connectivity by computer and by phone is provided below. The WebEx event address for Tuesday, March 1, 2022 is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m592e90e8ce149588f4e7b2a2d2e46f4c* the event number (access code) is 2761 749 9803; the password is FWkhxrp$738 (case sensitive). Any interested person may join by phone by dialing the WebEx toll access number 1–415–527–5035 or 1–929–251–9612, and then entering the numeric participant passcode: 39549770. The WebEx event address for Wednesday, March 2, 2022 is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m4981df9b7f36ffe1170da5b0e9ea048c* the event number (access code) 2760 447 2272; the password is HTsKj9iD$23 (case sensitive). Any interested person may join by phone by dialing the WebEx toll access number 1–415–527–5035 or 1–929–251–9612, and then entering the numeric participant passcode: 48755943.

The agenda for the meeting will include reports from the following:

—Aeronautics Committee
—— Human Exploration and Operations Committee
—— Science Committee
—— STEM Engagement Committee
—— Technology, Innovation and Engineering Committee

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. 2022–03128 Filed 2–11–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 22–010]

Name of Information Collection: Remote Psychoacoustic Test, Phase 1, for Urban Air Mobility Vehicle Noise Human Response

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by April 15, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375 or email *claire.a.little@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is leading an Urban Air Mobility (UAM) vehicle noise cooperative human response study involving multiple testing locations, other U.S. government agencies, academia, and industry. Overarching study goals are:

1. Obtain a wide range of UAM vehicle sounds for use in human response studies.

2. Provide insights into human response of UAM vehicle noise that will collectively be challenging for any single agency or organization to acquire.

3. Create an open database of human response to UAM vehicle noise to support follow-on studies.

The UAM vehicle noise cooperative human response study is currently divided into two phases: A Feasibility Phase (Phase 1) and Phase 2. Each phase executes one or more psychoacoustic tests. Phase 1 seeks to demonstrate and refine the test methodology that will be used in Phase 2. Since UAM vehicle noise may be challenging to acquire as stimuli, the Phase 1 psychoacoustic test will use other types of aircraft noise as stimuli. Phase 2 will focus on capturing human response to UAM vehicle noise stimuli.

This information collection is for the Phase 1 psychoacoustic test. A remote psychoacoustic testing platform will allow recruited test subjects to listen to NASA-provided test sound stimuli over the internet using their own computers and headphones and register their annoyance rating for each.

The outcome of the Phase 1 psychoacoustic test is a demonstrated capability for ranking of sound stimuli by annoyance ratings from remote test subjects.

II. Methods of Collection

Test subjects will electronically indicate their annoyance rating to test stimuli into an interface displayed on their own computers.

III. Data

Title: Remote Psychoacoustic Test for Urban Air Mobility Vehicle Noise Human Response.

OMB Number:

Type of review: New.

Affected Public: Individuals.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 80.

Annual Responses: 80.

Estimated Time per Response: 80 minutes.

Estimated Total Annual Burden Hours: 107 hours.

Estimated Total Annual Cost: $4,280.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2022–03112 Filed 2–11–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–22–0004; NARA–2022–028]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by March 29, 2022.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-22-0004/document.* This is a direct link to the schedules posted in the docket for this notice on *regulations.gov*. You may submit comments by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq.*

Due to COVID–19 building closures, we are currently temporarily not accepting comments by mail. However, if you are unable to comment via *regulations.gov*, you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

Due to COVID–19 building closures, we are currently temporarily not accepting comments by mail. However, if you are unable to comment via *regulations.gov*, you may contact *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Energy, Agency-wide, Employee Acquisitions Records (DAA–0434–2020–0009).

2. Department of Transportation, Federal Aviation Administration, Certification and Compliance Management Information System (DAA–0237–2021–0006).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2022–03023 Filed 2–11–22; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of February 14, 21, 28, March 7, 14, 21, 2022.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of February 14, 2022

Monday, February 14, 2022

11:30 a.m. Affirmation Session (Public Meeting) (Tentative). Hearing Requests in Exelon Multiple Indirect License Transfers

(Tentative) (Contact: Wesley Held: 301–287–3591)

Additional Information: Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live; via teleconference. Details for joining the teleconference in listen only mode at *https://www.nrc.gov/pmns/mtg.*

Week of February 21, 2022—Tentative

Thursday, February 24, 2022

10:00 a.m. Briefing on Regulatory Research Program Activities (Public Meeting).(Contact: Nick Difrancesco: 301–415–1115)

Additional Information: The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Week of February 28, 2022—Tentative

There are no meetings scheduled for the week of February 28, 2022.

Week of March 7, 2022—Tentative

There are no meetings scheduled for the week of March 7, 2022.

Week of March 14, 2022—Tentative

There are no meetings scheduled for the week of March 14, 2022.

Week of March 21, 2022—Tentative

There are no meetings scheduled for the week of March 21, 2022.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via e-mail at *Wesley.Held@nrc.gov*. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the Internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, Braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by e-mail at *Anne.Silk@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by e-mail at *Tyesha.Bush@nrc.gov* or *Betty.Thweatt@nrc.gov*.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: February 10, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator Office of the Secretary.

[FR Doc. 2022–03181 Filed 2–10–22; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

693rd Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on March 2–4, 2022. The Committee will be conducting meetings that will include some members being physically present at the U.S. Nuclear Regulatory Commission (NRC) while other members participating remotely. Interested members of the public are encouraged to participate remotely in any open sessions via 301–576–2978, passcode 639 858 982#. A more detailed agenda may be found at the ACRS public website at *https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.*

Wednesday, March 2, 2022

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Proposed Draft Rulemaking 10 CFR parts 50 and 52 (Open)—The Committee will have presentations and discussion with representatives from the NRC staff regarding the subject topic.

10:00 a.m.–11:00 a.m.: Committee Deliberation on the Proposed Draft Rulemaking 10 CFR parts 50 and 52 (Open)—The Committee will deliberate regarding the subject topic.

1:00 p.m.–2:30 p.m.: Integration of Source Term Activities in Support of Advanced Reactor Initiatives (Open)—The Committee will have presentations and discussion with representatives from the NRC staff regarding the subject topic.

2:30 p.m.–3:30 p.m.: Committee Deliberation on Integration of Source Term Activities in Support of Advanced Reactor Initiatives (Open)—The Committee will deliberate regarding the subject topic.

3:45 p.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Thursday, March 3, 2022

8:30 a.m.–11:30 a.m.: National Institute of Standards and Technology (NIST) Event Briefing (Open/Closed)—The Committee will have presentations and discussion with representatives from the NRC and NIST staff regarding the subject topic. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

1:30 p.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, March 4, 2022

8:30 a.m.–11:30 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations/Preparation of Reports (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or proceed to preparation of reports as determined by the Chairman. [Note: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]. [Note: Pursuant to 5 U.S.C. 552b(c)(2)and (6), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

1:30 p.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [Note: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were

published in the **Federal Register** on June 13, 2019 (84 FR 27662). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Officer (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

An electronic copy of each presentation should be emailed to the Cognizant ACRS Staff at least one day before meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System (ADAMS), which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/*.

Dated: February 9, 2022.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2022–03120 Filed 2–11–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–223; NRC–2018–0053]

University of Massachusetts Lowell; University of Massachusetts Lowell Research Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a renewal of Facility Operating License No. R–125, held by the University of Massachusetts Lowell (UML, the licensee), for the continued operation of the University of Massachusetts Lowell Research Reactor (UMLRR) for an additional 20 years from the date of issuance. The facility is located on the UML campus in Lowell, Massachusetts.

DATES: Renewed Facility Operating License No. R–125 was issued on February 3, 2022, and is effective as of the date of issuance.

ADDRESSES: Please refer to Docket ID NRC–2018–0053 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–2018–0053. 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.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *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: Edward Helvenston, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4067; email: *Edward.Helvenston@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC has issued a renewal of Facility Operating License No. R–125, held by UML, which authorizes operation of the UMLRR. The UMLRR is a plate-type-fueled research reactor located on the UML campus in Lowell, Massachusetts. The renewed license continues to authorize the licensee to operate the UMLRR at a steady-state power level up to a maximum of 1000 kilowatts (thermal). Renewed Facility Operating License No. R–125 will expire 20 years from its date of issuance, February 3, 2022.

The renewed facility operating license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in chapter I of title 10 of the *Code of Federal Regulations.* The Commission has made appropriate findings as required by the Act and the Commission's regulations, and sets forth those findings in the renewed facility operating license. The agency afforded an opportunity for hearing in the Notice of Opportunity to Request a Hearing published in the **Federal Register** on March 19, 2018 (83 FR 12036). The NRC received no requests for a hearing following the notice.

The NRC staff prepared a safety evaluation report (SER)—Renewal of the Facility Operating License for the University of Massachusetts Lowell Research Reactor related to the renewal of Facility Operating License No. R–125 and concluded, based on that evaluation, that the licensee can continue to operate the facility without endangering the health and safety of the public. The NRC staff also prepared an environmental assessment and finding of no significant impact regarding the renewal of the facility operating license, published in the **Federal Register** on August 4, 2021 (86 FR 41998), and concluded that renewal of the facility operating license will not have a significant impact on the quality of the human environment.

II. Availability of Documents

Documents related to this action, including the license renewal application and other supporting documentation, and the SER prepared by the NRC staff for the license renewal, are available to interested persons as indicated.

Document	ADAMS accession No.
University of Massachusetts at Lowell, Submittal of Revision 7 to Emergency Plan, dated May 23, 2013	ML17296B070 (Package).
University of Massachusetts at Lowell, Submittal of Revision 7 to Physical Security Plan, dated January 13, 2015.	ML15015A016.
University of Massachusetts Lowell, Request for Renewal of Facility Operating License R–125 and SAR, dated October 20, 2015.	ML16042A015 (Package).
University of Massachusetts Lowell, Submittal of Revision 2 to Operator Requalification Program, dated March 16, 2016.	ML16076A405 (Package).
University of Massachusetts Lowell, Response to Request for Additional Information Regarding the Operator Requalification Program for License Renewal and Submittal of Revision 3 to Operator Requalification Program, dated November 30, 2016.	ML16335A327 (Package).
University of Massachusetts Lowell, Response to Request for Additional Information for License Renewal, dated March 31, 2017.	ML17090A348 (Package).
University of Massachusetts Lowell, Response to Request for Additional Information Regarding Financial Qualifications for License Renewal, dated July 11, 2017.	ML17192A428 (Package).
University of Massachusetts Lowell, Response to Request for Additional Information Regarding the Physical Security Plan for License Renewal and Submittal of Revision 8 to Physical Security Plan, dated August 7, 2017.	ML17222A071.
University of Massachusetts Lowell, Submittal of Revision 9 to Physical Security Plan, dated September 13, 2017.	ML17261A211.
University of Massachusetts Lowell, Response to Request for Additional Information for License Renewal, dated January 6, 2018.	ML18006A003 (Package).
University of Massachusetts Lowell, Additional Clarifying Information for License Renewal, dated February 1, 2018.	ML18032A534 (Package).
University of Massachusetts Lowell, Response to Request for Additional Information Primarily Related to Technical Specifications, dated March 5, 2019.	ML19064B373 (Package).
University of Massachusetts Lowell, Submittal of Revised SAR Section 7.4.1.2, dated April 10, 2019	ML19100A273.
University of Massachusetts Lowell, Response to Request for Additional Information Primary Related to Instrumentation and Controls, dated October 18, 2019.	ML19291C293.
University of Massachusetts Lowell, Supplement to October 18, 2019, Response to Request for Additional Information, dated October 24, 2019.	ML19297F433.
University of Massachusetts Lowell, Second Supplement to October 18, 2019, Response to Request for Additional Information, dated December 19, 2019.	ML19353C523.
University of Massachusetts Lowell, Supplement to December 19, 2019, letter, dated December 20, 2019	ML19354A610.
University of Massachusetts Lowell, Response to Items 7.4.c and 7.5.a from Request for Additional Information Primarily Related to Instrumentation and Controls, dated February 24, 2020.	ML20055F604.
University of Massachusetts Lowell, Supplemental Information Provided in Response to Audit, dated September 30, 2020.	ML20274A248 (Package).
University of Massachusetts Lowell, Supplemental Information Provided in Response to Audit, dated January 30, 2021.	ML21030A004.
University of Massachusetts Lowell, Supplemental Information Provided in Response to Audit, dated February 16, 2021.	ML21047A245.
University of Massachusetts Lowell, Request for Additional Language in Proposed License Conditions, dated April 5, 2021.	ML21095A245.
University of Massachusetts Lowell, Review of Renewal License Conditions, dated April 20, 2021	ML21110A053.
NRC Staff Safety Evaluation Report—Renewal of the Facility Operating License for the University of Massachusetts Lowell Research Reactor, dated February 3, 2022.	ML21168A054.

Dated: February 9, 2022.

For the Nuclear Regulatory Commission.

Joshua M. Borromeo,

Chief, Non-Power Production and Utilization Facility Licensing Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–03127 Filed 2–11–22; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Withdrawal of Prior Notice; Proposed Submission of Information Collection for OMB Review; Comment Request; Medical Exception Request

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of withdrawal; Notice of intent to request extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) published a notice in the **Federal Register** of its intent to request that the Office of Management and Budget (OMB) extend approval, without change, under the Paperwork Reduction Act (PRA), a collection of information for its employees to request a medical exception to the COVID–19 vaccination requirement on January 28, 2022. That notice is withdrawn in light of the January 21, 2022 nationwide preliminary injunction enjoining implementation and enforcement of the federal employee vaccination requirement pursuant to Executive Order 14043. PBGC seeks comment on its new notice of intent to request that OMB approve, without change, under the PRA, a collection of information for its employees to request a medical exception to the COVID–19 vaccination requirement.

DATES: The document published on January 28, 2022 (87 FR 4667) is

withdrawn as of February 14, 2022. Comments on this notice of intent must be submitted on or before April 15, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.* Refer to OMB control number 1212–0075 in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to OMB control number 1212–0075. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Commenters should not include any information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (''confidential business information''). Submission of confidential business information without a request for protected treatment constitutes a waiver of any claims of confidentiality.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–229–4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–6563. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: This notice replaces the notice published on January 28, 2022 (87 FR 4667), which PBGC withdraws.

Under Executive Order 14043, every Federal agency must ''implement, to the extent consistent with applicable law, a program to require COVID–19 vaccination for all of its Federal employees, with exceptions only as required by law.'' In following this directive, the Pension Benefit Guaranty Corporation (PBGC) imposed a requirement that its employees must receive and submit proof of a COVID–19 vaccination. As required by 29 U.S.C. 701 *et seq.* and 29 CFR part 1630, PBGC allows an exception from the vaccination requirement for employees who demonstrate medical reasons or disabilities that would make the COVID–19 vaccine unsafe for them. To obtain this exception, employees must complete the Request for Medical Exception to COVID–19 Vaccination Requirement form. PBGC uses the information on this form to verify employees' assertions that they are entitled to an exception to the COVID–19 vaccination requirement because of their medical or disability statuses.

The medical exception request collection of information has been approved by OMB under control number 1212–0075 (expires May 31, 2022). PBGC intends to request that OMB extend its approval for 3 years. 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.

PBGC estimates that an average of 2 employees each year will submit Request for Medical Exception to COVID–19 Vaccination Requirement forms. The total estimated annual burden of the collection of information is 0.5 hours and $0.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

A Notice Regarding Injunctions

The vaccination requirement issued pursuant to E.O. 14043 is currently the subject of a nationwide injunction. While that injunction remains in place, PBGC will not process requests for a medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043. PBGC will also not request the submission of any medical information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But PBGC may nevertheless receive information regarding a medical exception. That is because, if PBGC were to receive a request for an exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, PBGC will accept the request, hold it in abeyance, and notify the employee who submitted the request that implementation and enforcement of the COVID–19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place. In other words, during the pendency of the injunction, any information collection related to requests for medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 is not undertaken to implement or enforce the COVID–19 vaccination requirement.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–03118 Filed 2–11–22; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 3:00 p.m. on Thursday, February 17, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain

staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: February 10, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–03244 Filed 2–10–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 94181; File No. SR–NYSE–2021–74]

Self-Regulatory Organizations; New York Stock Exchange LLC, Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Provisions of Rule 7.35B

February 8, 2022.

On December 14, 2021, New York Stock Exchange LLC (''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 7.35B relating to the cancellation of MOC, LOC, and Closing IO Orders before the Closing Auction. The proposed rule change was published for comment in the **Federal Register** on December 29, 2021.[3] The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the proposed rule change is February 12, 2022. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.[5] Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates March 29, 2022, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change (File No. SR–NYSE–2021–74).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–03018 Filed 2–11–22; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93849 (Dec. 22, 2021), 86 FR 74204 (Dec. 29, 2021 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] The Commission notes that the exchange has a different pending proposed rule change that also relates to the NYSE Closing Auction. *See* Securities Exchange Act Release No. 93809 (Dec. 17, 2022), 86 FR 73060 (Dec. 23, 2021) (File No. SR–NYSE–2021–44) (Order Instituting Proceedings).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94189; File No. SR–MEMX–2021–10]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing of Amendment No. 1 to, and Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove, a Proposed Rule Change To Establish a Retail Midpoint Liquidity Program

February 8, 2022.

On August 18, 2021, MEMX LLC (''MEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a Retail Midpoint Liquidity Program (''Program''). The proposed rule change was published for comment in the **Federal Register** on September 8, 2021.[3] On October 19, 2021, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] On December 7, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change.[5] On January 27, 2022, the Exchange filed Amendment No. 1 to the proposed rule change, which supersedes the original filing in its entirety, and is described in Items I and II below, which Items have been prepared by the Exchange.[6] The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92844 (September 1, 2021), 86 FR 50411 (September 8, 2021). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-memx-2021-10/srmemx202110.htm.*

[4] *See* Securities Exchange Act Release No. 93383 (October 19, 2021), 86 FR 58964 (October 25, 2021).

[5] *See* Securities Exchange Act Release No. 93727 (December 7, 2021), 86 FR 70874 (December 13, 2021).

[6] In Amendment No. 1, the Exchange, among other things: (1) Eliminated the ability for Users (defined below) to elect whether to designate an RML Order to be identified as such for purposes of the Retail Liquidity Identifier, (2) proposes to allow Retail Midpoint Orders to trade with both displayed odd lot and non-displayed orders priced better than the Midpoint Price (defined below) at those orders' ranked prices rather than at the less aggressive Midpoint Price, and (3) proposes to allow a Retail Midpoint Order to interact with midpoint peg orders (*i.e.,* non-RML Orders) that have elected to be able to execute in the Retail Midpoint Liquidity Program, though only *after* the Retail Midpoint Order has executed against any better priced liquidity and any RML Orders. *Cf.* Investors

Continued

publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons, and is designating a longer period within which to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to establish a Retail Midpoint Liquidity Program. This Amendment No. 1 supersedes the original filing in its entirety. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this Amendment No. 1 to SR–MEMX–2021–10 [7] in order to address issues the Commission raised in the OIP and make other related modifications.

Background

The Exchange proposes to adopt new Exchange Rule 11.22 to establish a Retail Midpoint Liquidity Program (the ''RML Program''). As proposed, the RML Program is designed to provide retail investors with meaningful price improvement opportunities such that liquidity-providing Users [8] will be incentivized to direct additional orders designed to execute at the midpoint of the national best bid and offer (''NBBO'') (such price, the ''Midpoint Price'') to the Exchange to interact with orders that originate from retail investors that are also designed to execute at the Midpoint Price.

As former Commission Chairman Jay Clayton noted in a 2018 speech, forty-three million U.S. households hold a retirement or brokerage account, with $3.6 trillion in balance sheet assets in 128 million customer accounts serviced by more than 2,800 registered broker-dealers.[9] He also noted the importance of continued broad, long-term retail participation in our capital markets, and that retail investors count on the capital markets to fund major life events such as paying for their children's higher education or funding their own retirements.[10]

Against this backdrop, the RML Program is designed to provide retail investors with access to a pool of midpoint liquidity on the Exchange by introducing a new mechanism for retail-oriented liquidity provision in which liquidity-providing Users can provide price-improving liquidity at the Midpoint Price specifically to retail investors, and liquidity-removing RMOs submitting orders on behalf of retail investors can interact with such price-improving liquidity, thereby providing enhanced opportunities for meaningful price improvement for retail investors. The Exchange believes that introducing the RML Program could provide retail investors with a competitive alternative to existing exchange and over-the-counter (''OTC'') retail programs, by attracting counterparty liquidity to the Exchange from Users and their clients seeking to interact with retail liquidity.

The Exchange understands that many professional market participants, such as market makers, view interacting with orders of retail investors as more desirable than interacting with orders of other professional market participants. For example, as the Commission staff noted in a 2016 memorandum to the Equity Market Structure Advisory Committee (''EMSAC Memorandum''), ''[m]arket makers are interested in retail customer order flow because retail investors are, on balance, less informed than other traders about short-term price movements . . . [and t]rading against retail customer order flow enables market makers to avoid adverse selection by informed professional traders and to more reliably profit from market-making activity.'' [11] Consistent with the EMSAC Memorandum's conclusions, and based on informal discussions with market participants and the knowledge and experience of its staff, the Exchange believes that market makers and other sophisticated market participants generally value interacting with retail orders because they are smaller and not likely to be part of a larger parent order that can move a stock price, causing a loss to the market maker. The proposed rule change thus seeks to provide enhanced price improvement opportunities for retail customers by incentivizing Users and their clients to provide price-improving liquidity to interact with the orders of retail investors at the Midpoint Price. The RML Program would therefore be consistent with the goals of the Commission to encourage markets that are structured to benefit ordinary investors,[12] while facilitating order interaction to the benefit of all market participants.

As proposed, through the RML Program, the Exchange would enable Retail Member Organizations [13] to submit a new type of Retail Order designed to execute at the Midpoint Price (*i.e.,* a Retail Midpoint Order, described below) to the Exchange, and any User would be permitted to provide

Exchange Rule 11.232(e)(3)(A)(iii) (providing that Retail Liquidity Provider orders (the equivalent to MEMX's proposed RML Orders) do not have a priority advantage over other non-displayed orders priced to execute at the midpoint of the national best bid and offer; they instead are ranked in time priority with other midpoint interest).

[7] Securities Exchange Act Release No. 92844 (September 1, 2021), 86 FR 50411 (September 8, 2021) (the ''Initial Proposal''). The Commission issued an Order Instituting Proceedings to Determine Whether to Approve or Disapprove the Initial Proposal. *See* Securities Exchange Act Release No. 93727 (December 7, 2021), 86 FR 70874 (December 13, 2021) (the ''OIP'').

[8] As defined in Exchange Rule 1.5(jj), a ''User'' is a member of the Exchange (''Member'') or sponsored participant of a Member who is authorized to obtain access to the System pursuant to Exchange Rule 11.3. The term ''System'' refers to the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing. *See* Exchange Rule 1.5(gg).

[9] *See* The Evolving Market for Retail Investment Services and Forward-Looking Regulation—Adding Clarity and Investor Protection while Ensuring Access and Choice, Chairman Jay Clayton, Commission (May 2, 2018), available at *https://www.sec.gov/news/speech/speech-clayton-2018-05-02.*

[10] *Id.*

[11] *See* January 26, 2016 Memorandum entitled ''Certain Issues Affecting Customers in the Current Equity Market Structure'' from the staff of the Commission's Division of Trading and Markets, available at *https://www.sec.gov/spotlight/equity-market-structure/issues-affecting-customers-emsac-012616.pdf.*

[12] *See, e.g.,* U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at *https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf* (''Commission Strategic Plan'').

[13] A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under Exchange Rule 11.21 to submit Retail Orders. A ''Retail Order'' means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Exchange Rule 11.21(a).

price improvement to such order in the form of another new order type that is designed to execute at the Midpoint Price and that is only eligible to execute against a Retail Midpoint Order (*i.e.,* an RML Order, described below). The Exchange expects that the introduction of Retail Midpoint Orders and RML Orders, through the proposed RML Program, would result in a balanced mix of retail brokerage firms and their wholesaling partners submitting Retail Midpoint Orders to the Exchange to access the additional midpoint liquidity provided by RML Orders that the Exchange anticipates resulting from the RML Program.

The Exchange notes that the proposed RML Program is comparable in purpose and effect to the Investors Exchange LLC (''IEX'') Retail Price Improvement Program (the ''IEX Retail Program''), which is also designed to provide retail investors with meaningful price improvement opportunities.[14] Further, the Commission recently approved several changes to the IEX Retail Program that make certain features of the IEX Retail Program substantially similar to proposed features of the RML Program.[15] The Exchange will describe certain differences between the proposed RML Program and the IEX Retail Program under the appropriate headings below.

The Exchange will submit a separate proposal to amend its Fee Schedule in connection with the proposed RML Program. Under that proposal, the Exchange expects to provide free executions or charge a fee to Users for executions of their orders against Retail Midpoint Orders at the Midpoint Price (*i.e.,* RML Orders or Eligible Midpoint Peg Orders, as defined below), and in turn would provide a rebate or free executions to RMOs for executions of their Retail Midpoint Orders against such orders.

Definitions

The Exchange proposes to adopt the following definitions under paragraph (a) of proposed Exchange Rule 11.22 (Retail Midpoint Liquidity Program). First, the term ''Retail Midpoint Order'' would be defined as a Retail Order submitted by an RMO that is a Pegged Order[16] with a Midpoint Peg[17] instruction (''Midpoint Peg Order'') and that is only eligible to execute against RML Orders (a proposed new order type described below), orders priced more aggressively than the Midpoint Price, and Midpoint Peg Orders that are not RML Orders but are designated as eligible to execute against Retail Midpoint Orders (*i.e.,* Eligible Midpoint Peg Orders, which are further described below), through the execution process described in proposed Exchange Rule 11.22(c). As proposed, a Retail Midpoint Order must have a time-in-force (''TIF'') instruction of IOC.[18]

Second, the term ''Retail Midpoint Liquidity Order'' or ''RML Order'' would be defined as a Midpoint Peg Order that is only eligible to execute against Retail Midpoint Orders through the execution process described in proposed Exchange Rule 11.22(c). As proposed, an RML Order must have a TIF instruction of Day,[19] RHO,[20] or GTT[21] and may not include a Minimum Execution Quantity[22] instruction. Any User would be permitted, but not required, to submit RML Orders. RML Orders would only execute at the Midpoint Price, as stated in proposed Exchange Rule 11.22(c)(1). The Exchange notes that an RML Order is substantially similar in effect to IEX's Retail Liquidity Provider Order (''IEX RLP Order'') offered under the IEX Retail Program, in that an RML Order is an order that is designed to execute at the Midpoint Price, is only eligible to execute against retail order interest, and may be submitted by any User.[23]

Third, the term ''Eligible Midpoint Peg Order'' would be defined as a Midpoint Peg Order that is not an RML Order but includes an instruction that such order is eligible to execute against Retail Midpoint Orders through the execution process described in proposed Exchange Rule 11.22(c). Thus, as proposed, a User submitting a Midpoint Peg Order that is not an RML Order would have the ability, but is not required, to include an instruction that such order is eligible to execute against Retail Midpoint Orders (*i.e.,* to designate such order as an Eligible Midpoint Peg Order).[24]

The RML Program is generally intended to facilitate the execution of Retail Midpoint Orders against RML Orders at the Midpoint Price. Nevertheless, the Exchange believes that it is appropriate to permit Retail Midpoint Orders to also execute against non-RML Midpoint Peg Orders resting on the MEMX Book that are designated as eligible to execute against Retail Midpoint Orders (*i.e.,* Eligible Midpoint Peg Orders). While retail orders are typically smaller in size, and would thus generally be fully executed through interactions with RML Orders and/or orders priced more aggressively than the Midpoint Price, allowing Retail Midpoint Orders to trade with Eligible Midpoint Orders would increase the potential pool of liquidity that larger Retail Midpoint Orders may interact with to the benefit of retail investors. At the same time, although many market participants that post liquidity at the Midpoint Price through Midpoint Peg Orders may be willing to trade with retail order flow that is generally considered less informed, the Exchange believes that it is important to allow Users to choose whether they would like their Midpoint Peg Orders to execute against Retail Midpoint Orders

[14] *See* IEX Rule 11.232; *see also* Securities Exchange Act Release No. 92398 (July 13, 2021), 86 FR 38166 (July 19, 2021) (SR–IEX–2021–06) (order approving changes to the IEX Retail Program including dissemination of a retail liquidity identifier and limiting IEX Retail Liquidity Provider orders to midpoint peg orders) (the ''IEX Retail Approval Order''). The Exchange notes that the IEX Retail Program, as amended, supports executions of retail orders described in IEX Rule 11.190(b)(15) (''IEX Retail Orders'') at the Midpoint Price as well as prices that are more aggressive than the Midpoint Price. The Exchange notes that this aspect of the IEX Retail Program is similar to the proposed RML Program in that executions of Retail Midpoint Orders would be supported at the Midpoint Price as well as prices that are more aggressive than the Midpoint Price, as further described below. The Exchange further notes that Retail Orders would still be eligible to execute at any prices (including prices that are less aggressive than the Midpoint Price) outside of the RML Program as they are today.

[15] *See* IEX Retail Approval Order, *supra* note 14.

[16] Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c) and generally defined as an order that is pegged to a reference price and automatically re-prices in response to changes in the NBBO.

[17] A Midpoint Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to the midpoint of the NBBO. *See* Exchange Rule 11.6(h)(2).

[18] ''IOC'' is an instruction the User may attach to an order stating the order is to be executed in whole or in part as soon as such order is received, and the portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the MEMX Book. *See* Exchange Rule 11.6(o)(1). The term ''MEMX Book'' refers to the System's electronic file of orders. *See* Exchange Rule 1.5(q).

[19] *See* Exchange Rule 11.6(o)(2).

[20] *See* Exchange Rule 11.6(o)(5).

[21] *See* Exchange Rule 11.6(o)(4).

[22] The Minimum Execution Quantity instruction is described in Exchange Rule 11.6(f) and is generally defined as an instruction a User may attach to an order with a Non-Displayed instruction or a TIF of IOC instruction requiring the System to execute the order only to the extent that a minimum quantity can be satisfied. A Non-Displayed instruction is an instruction a User may attach to an order stating that the order is not to be displayed by the System on the MEMX Book. *See* Exchange Rule 11.6(c)(2).

[23] *See* IEX Rule 11.190(b)(14), which describes the IEX RLP Order. *See also* IEX Retail Approval Order, *supra* note 14.

[24] The Exchange is also proposing to amend Exchange Rule 11.6(h)(2), which describes Midpoint Peg Orders generally, to reflect that a User may, but is not required to, include an instruction that a Midpoint Peg Order that is not an RML Order is eligible to execute against a Retail Midpoint Order.

in the RML Program where such orders may be subject to a different fee structure.[25] Similar to liquidity swap instructions available on other U.S. equity exchanges,[26] the Exchange would therefore allow these Users to control their economics by choosing to opt in or out of interacting with Retail Midpoint Orders entered into the RML Program. The Exchange notes that regardless of whether the User chooses to opt in (*i.e.,* designate a non-RML Midpoint Peg Order as an Eligible Midpoint Peg Order), such order would remain available on the MEMX Book where it is accessible to all market participants outside of the RML Program, including market participants submitting orders on behalf of retail investors, as it is today.[27] The Exchange notes that enabling a User to choose whether its Midpoint Peg Orders may interact with Retail Midpoint Orders is different than the IEX Retail Program in which all such orders are eligible to interact against incoming Retail Orders; however, the Exchange believes that providing such optionality is appropriate for the reasons described above.

As Retail Midpoint Orders and RML Orders are types of Pegged Orders, and are designed to execute on the Exchange against each other through the RML Program, such orders would not be eligible for routing.[28]

Retail Liquidity Identifier

Under the RML Program, the Exchange proposes to disseminate a Retail Liquidity Identifier through the Exchange's proprietary market data feeds, MEMOIR Depth [29] and MEMOIR Top,[30] and the appropriate securities information processor (''SIP'') when RML Order interest (''RML Interest'') aggregated to form at least one round lot for a particular security is available in the System (''Retail Liquidity Identifier''), provided that such RML Interest is resting at the Midpoint Price and is priced at least $0.001 better than the national best bid (''NBB'') or national best offer (''NBO''). The purpose of the Retail Liquidity Identifier is to provide relevant market information to RMOs that there is available RML Interest on the Exchange, thereby incentivizing them to send Retail Midpoint Orders to the Exchange seeking execution at the Midpoint Price. The Retail Liquidity Identifier would reflect the symbol and the side (buy and/or sell) of the RML Interest but would not include the price or size.[31] While an explicit price would not be disseminated, because RML Orders are only eligible to execute at the Midpoint Price, dissemination of the Retail Liquidity Identifier would thus reflect the availability of price improvement at the Midpoint Price. The Exchange notes that the Exchange's proposed Retail Liquidity Identifier is substantively identical to the Retail Liquidity Identifier disseminated by IEX under the IEX Retail Program.[32]

As noted above, the Exchange would only disseminate the Retail Liquidity Identifier when RML Interest would provide at least $0.001 of price improvement, which is consistent with the rules of the other exchanges that disseminate Retail Liquidity Identifiers [33] as well as the SIP Plans' requirements.[34] Because RML Orders are proposed to be only Midpoint Peg Orders, they will always represent at least $0.001 price improvement over the NBB or NBO, with two exceptions: (1) In a locked or crossed market; and (2) a sub-dollar quote when the security's spread is less than $0.002.[35] Under Exchange Rule 11.8(c)(6), a Pegged Order resting on the MEMX Book is not eligible for execution when the market is locked or crossed; thus, an RML Order would not be eligible for execution when the market is locked or crossed and would rest on the MEMX Book and become eligible for execution again when the market ceases to be locked or crossed.[36] Because an RML Order would not be eligible for execution when the market is locked or crossed, such order would not provide any price improvement to an incoming Retail Midpoint Order (*i.e.,* would not be priced at least $0.001 better than the NBB or NBO) and therefore would not comprise eligible RML Interest for purposes of the Retail Liquidity Identifier. Similarly, when a particular security is priced less than $1.00 per share, its MPV is $0.0001, so the Midpoint Price will not always represent at least $0.001 in price improvement.[37] Therefore, the Exchange would only disseminate the Retail Liquidity Identifier for sub-dollar securities if the spread in the security is greater than or equal to $0.002, meaning the Midpoint Price represents at least $0.001 price improvement over the NBB or NBO. With respect to the requirement that an RML Order must be resting at the Midpoint Price in order to be included in the RML Interest to be disseminated pursuant to the Retail Liquidity Identifier, the Exchange notes that an RML Order could have a limit price that is less aggressive than the Midpoint Price in which case it would not be eligible to trade with an incoming Retail Midpoint Order and therefore should not be included for purposes of Retail Liquidity Identifier dissemination since it would not reflect interest available to trade with Retail Midpoint Orders. The Exchange notes that not including: (1) RML Interest for a security when the market for the security is locked or crossed; (2) RML Interest for a sub-dollar security if the spread in the security is greater [sic] than or equal [sic] to $0.002; and (3) RML Interest that is not resting at the Midpoint Price (*i.e.,* RML Interest that is constrained by a limit price that is less aggressive than the Midpoint Price), for purposes of Retail Liquidity Identifier dissemination is consistent with the Retail Liquidity Identifier disseminated by IEX under the IEX Retail Program.[38]

The Exchange also proposes to remove the Retail Liquidity Identifier previously disseminated through the

[25] As noted above, the Exchange will submit a separate proposal to amend its Fee Schedule in connection with the implementation of the RML Program. Under that proposal, the Exchange expects to provide free executions or charge a fee to Users for executions of their liquidity-providing Eligible Midpoint Peg Orders against incoming Retail Midpoint Orders, whereas liquidity-providing Midpoint Peg Orders ordinarily receive a rebate under the Exchange's pricing.

[26] *See, e.g.,* Cboe BZX Exchange, Inc. (''Cboe BZX'') Rule 11.3(c)(12) (Non-Displayed Swap Order). A Non-Displayed Swap (''NDS'') Order entered on Cboe BZX elects to remove liquidity against an incoming Post Only Order that would otherwise not trade on entry. In such situations the NDS Order is treated as liquidity remover and would pay associated fees.

[27] For example, a Retail Order could be entered onto the MEMX Book outside of the RML Program where it would be eligible to trade with other liquidity-providing orders, including Midpoint Peg Orders that have not opted into trading with Retail Midpoint Orders.

[28] *See* Exchange Rule 11.8(c)(5), which provides that Pegged Orders are not eligible for routing.

[29] *See* Exchange Rule 13.8(a).

[30] *See* Exchange Rule 13.8(b).

[31] The Exchange plans to submit a letter requesting exemptive relief from obligations set forth in Rule 602 of Regulation NMS.

[32] *See* IEX Rule 11.232(f); *see also* IEX Retail Approval Order, *supra* note 14, at 38167.

[33] *See, e.g.,* IEX Rule 11.232(f), Cboe BYX Rule 11.24(e), and NYSE Arca Equities Rule 7.44(j).

[34] *See* January 26, 2021 CQS Participant Input Binary Specification Version 2.6a, available at *https://www.ctaplan.com/publicdocs/ctaplan/CQS_Pillar_Input_Specification.pdf* and May 2020 UTP Data Feed Services Specification Version 1.5, available at *https://www.utpplan.com/DOC/UtpBinaryOutputSpec.pdf.*

[35] The Minimum Price Variation (''MPV'') for bids, offers, or orders in securities priced less than $1.00 per share is $0.0001. *See* Exchange Rule 11.6(g).

[36] *See* Exchange Rule 11.8(c)(6).

[37] For example, if a security's NBB is $0.505 and NBO is $0.506, the Midpoint Price would be $0.5055, which is $0.0005 more than the NBB and less than the NBO, so it would not represent at least $0.001 price improvement over the NBB or NBO, and therefore would not comprise eligible RML Interest for purposes of the Retail Liquidity Identifier.

[38] *See* IEX Rule 11.232(f); *see also* IEX Retail Approval Order, *supra* note 14, at 38167.

MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP after executions against and/or cancellations of Retail Midpoint Orders have depleted the available RML Interest such that the remaining RML Interest does not aggregate to form at least one round lot, or in situations where there is no actionable RML Interest (such as when the market is locked or crossed), in order to indicate to market participants that there is no longer RML Interest of at least one round lot available. The Exchange believes that removing the Retail Liquidity Identifier on the market data feeds and SIP when there is not sufficient eligible RML Interest available is consistent with the implementation of the other exchanges that disseminate Retail Liquidity Identifiers.

The Exchange anticipates that Retail Midpoint Orders would mostly interact with RML Orders due to the Retail Liquidity Identifier. In this regard, the Exchange generally expects RMOs to submit Retail Midpoint Orders when the Retail Liquidity Identifier is disseminated, which indicates that there is available RML Interest of at least one round lot on the MEMX Book. In turn, the Exchange generally does not expect RMOs to submit Retail Midpoint Orders when the Retail Liquidity Identifier is not disseminated or otherwise to specifically seek to interact with other orders priced more aggressively than the Midpoint Price or Eligible Midpoint Peg Orders, particularly as any such orders would be either non-displayed (and therefore not known to the RMO) or less than a round lot in size.

Priority and Order Execution

The proposed priority and order execution under the RML Program when a Retail Midpoint Order is received by the Exchange is as follows:

• First, a Retail Midpoint Order would execute against orders resting on the MEMX Book that are priced more aggressively than the Midpoint Price. More specifically, proposed Exchange Rule 11.22(c)(2) provides that if there is: (A) A Limit Order [39] of Odd Lot [40] size that is displayed by the System (''Displayed Odd Lot Order'') and that is priced more aggressively than the Midpoint Price and/or (B) an order that is not displayed by the System (''Non-Displayed Order'') and that is priced more aggressively than the Midpoint Price, resting on the MEMX Book, then an incoming Retail Midpoint Order would first execute against any such orders pursuant to the Exchange's standard price/time priority in accordance with Exchange Rule 11.9 and Exchange Rule 11.10.[41] Retail Midpoint Orders would be executed against such Displayed Odd Lot Orders and/or Non-Displayed Orders at the prices that such resting orders are ranked on the MEMX Book.

• Next, after executing against orders priced more aggressively than the Midpoint Price pursuant to proposed Exchange Rule 11.22(c)(2), a Retail Midpoint Order would then execute against RML Orders resting on the MEMX Book at the Midpoint Price in time priority pursuant to proposed Exchange Rule 11.22(c)(3).

• Finally, after executing against orders priced more aggressively than the Midpoint Price pursuant to proposed Exchange Rule 11.22(c)(2) and RML Orders pursuant to proposed Exchange Rule 11.22(c)(3), a Retail Midpoint Order would then execute against Eligible Midpoint Peg Orders at the Midpoint Price in time priority pursuant to proposed Exchange Rule 11.22(c)(4).[42]

The purpose of permitting a Retail Midpoint Order to first execute against Displayed Odd Lot Orders and/or Non-Displayed Orders that are priced more aggressively than the Midpoint Price is to ensure that the priority of more aggressively priced orders over less aggressively priced orders is maintained on the Exchange, consistent with Exchange Rule 11.9. The Exchange believes that this aspect of the RML Program is appropriate because it would enable an RMO entering a Retail Midpoint Order to capture better prices available on the MEMX Book while seeking out midpoint liquidity through the RML Program. Passing along this additional available price improvement to retail investors is consistent with the RML Program's overall objective to provide meaningful price improvement opportunities to retail investors and the Commission's goal to encourage markets that are structured to benefit ordinary investors.

At the Midpoint Price, the Exchange believes it is appropriate to execute RML Orders, which contribute to the dissemination of the Retail Liquidity Identifier, ahead of Eligible Midpoint Peg Orders, which do not contribute to the dissemination of the Retail Liquidity Identifier and are not displayed on the MEMX Book. As previously discussed, the Retail Liquidity Identifier is likely to be the principal factor in attracting RMOs to send Retail Midpoint Orders as it signals to the market that there is available midpoint liquidity on the Exchange and thus increases the likelihood of execution for such orders on the Exchange.

Although certain market participants may not ordinarily post liquidity at the Midpoint Price on exchanges due to adverse selection risks, the Exchange believes that they may be willing to do so if they can limit their interactions to Retail Orders (*i.e.,* through the use of RML Orders), which are generally considered to be less informed, as described above. However, entering RML Orders involves some additional risk for those market participants as the Retail Liquidity Identifier will signal that there is a buyer or seller that is willing to trade with retail investors at the Midpoint Price. The proposed RML Program therefore appropriately balances the risks and incentives associated with entering RML Orders such that market participants that wish to interact with Retail Midpoint Order flow would be free to determine whether to submit RML Orders that contribute to the dissemination of the Retail Liquidity Identifier and have execution priority when trading with incoming Retail Midpoint Orders, or instead enter Eligible Midpoint Peg Orders that remain non-displayed but cede execution priority to those RML Orders. Thus, similar to the priority afforded to orders that are displayed on the MEMX Book, which receive priority over non-displayed orders because they contribute to price discovery and attract liquidity to the Exchange, the Exchange believes that RML Orders, which contribute to the dissemination of the Retail Liquidity Identifier that signals to RMOs that there is available midpoint liquidity on the Exchange, should receive priority over Eligible Midpoint Peg Orders for the same reasons.

The Exchange notes that this aspect of the proposed RML Program is partially different than the IEX Retail Program in that the IEX Retail Program does not provide priority to an IEX RLP Order

[39] *See* Exchange Rule 11.8(b).

[40] *See* Exchange Rule 11.6(q)(2).

[41] The Exchange notes that Displayed Odd Lot Orders and Non-Displayed Orders are the only types of orders that could rest on the MEMX Book at a price that is more aggressive than the Midpoint Price, as any displayed buy (sell) order that is at least one round lot in size would be eligible to form the NBB (NBO) as a Protected Quotation. The term ''Protected Quotation'' refers to a quotation that is a Protected Bid or Protected Offer. In turn, the term ''Protected Bid'' or ''Protected Offer'' refers to a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association. *See* Exchange Rule 1.5(z).

[42] Any remaining portion of a Retail Midpoint Order that is not executed pursuant to the execution process described in proposed Exchange Rule 11.22(c) would be cancelled back to the entering RMO since a Retail Midpoint Order may only be entered with a TIF of IOC and is not eligible for routing. *See* Exchange Rule 11.6(o)(1).

over other orders at the Midpoint Price, whereas the Exchange has proposed providing RML Orders with priority over Eligible Midpoint Peg Orders. However, the Exchange submits that the proposed order priority under the RML Program, as described above, is consistent with general principles of order priority on the Exchange and other U.S. equity exchanges, where orders at superior prices receive first priority and, at any particular price, orders that contribute to price discovery receive priority ahead of non-displayed orders that do not contribute to market transparency. As such, the Exchange does not believe that the proposed order priority under the RML Program raises any novel issues for the Commission to consider.

The following example, which the Exchange proposes to codify in proposed Exchange Rule 11.22(c)(5) as slightly modified to conform with the Rule's context, illustrates how the Exchange would handle orders under the proposed RML Program:

Assume the following facts:

- The NBBO for security ABC is $10.00–$10.10.
- User 1 enters an RML Order to buy ABC for 500 shares. The order is posted to the MEMX Book as an RML Order to buy ABC at $10.05. The Exchange publishes through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP a Retail Liquidity Identifier indicating the presence of RML Interest of at least one round lot to buy ABC.
- User 2 then enters a Pegged Order with a Midpoint Peg instruction to buy ABC for 500 shares that includes an instruction that such order is eligible to execute against Retail Midpoint Orders (*i.e.,* an Eligible Midpoint Peg Order). The order is posted to the MEMX Book as an Eligible Midpoint Peg Order to buy ABC at $10.05.
- User 3 then enters a Limit Order with a Displayed instruction [43] to buy 50 shares of ABC at $10.06, which is posted to the MEMX Book.
- User 4 then enters a Pegged Order with a Midpoint Peg instruction to buy ABC for 500 shares that is not an RML Order and does not include an instruction that such order is eligible to execute against Retail Midpoint Orders (*i.e.,* a Midpoint Peg Order that is not an Eligible Midpoint Peg Order). The order is posted to the MEMX Book as a Pegged Order to buy ABC at $10.05.
- User 5 then enters a Limit Order with a Non-Displayed instruction to buy ABC at $10.07 for 100 shares, which is posted to the MEMX Book.
- There are no other orders resting on the MEMX Book.

Example: Retail Member Organization enters a Retail Midpoint Order to sell 1,200 shares of ABC. The Retail Midpoint Order will execute in the following order:

- First, against the full size of User 5's buy Limit Order for 100 shares at $10.07 (because it is priced more aggressively than the Midpoint Price, and thus, it is eligible to execute against a Retail Midpoint Order and it is also the most aggressively priced order);
- second, against the full size of User 3's buy Limit Order for 50 shares at $10.06 (because it is priced more aggressively than the Midpoint Price, and thus, it is eligible to execute against a Retail Midpoint Order and it is the next most aggressively priced order);
- third, against the full size of User 1's buy RML Order for 500 shares at $10.05; and
- fourth, against the full size of User 2's buy Pegged Order for 500 shares at $10.05 (because it is an Eligible Midpoint Peg Order).

The Retail Midpoint Order does not execute against User 4's buy Pegged Order because User 4's buy Pegged Order is not an RML Order or an Eligible Midpoint Peg Order. The Retail Midpoint Order is filled for 1,150 shares and the balance of 50 shares is cancelled back to the Retail Member Organization. The Exchange removes the Retail Liquidity Identifier previously disseminated through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP as there is no longer RML Interest of at least one round lot to buy ABC.

Implementation

The Exchange proposes that all securities traded on the Exchange would be eligible for inclusion in the RML Program. If the Commission approves this proposed rule change, the Exchange will implement it within 90 days of approval and will provide notice to Members and market participants of the implementation timeline.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [44] in general, and furthers the objectives of Section 6(b)(5) of the Act [45] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change is consistent with these principles because it is designed to increase competition among execution venues and offer the potential for meaningful price improvement to orders of retail investors, including through encouraging market participants to provide additional liquidity to execute against the orders of retail investors at the Midpoint Price.

As discussed in the Purpose section, the Exchange's proposed RML Program is a simple, transparent approach designed to provide retail investors with meaningful price improvement opportunities, through RMOs' use of the proposed new Retail Midpoint Order, by incentivizing Users who wish to interact with such retail liquidity to send additional non-displayed resting interest designed to execute at the Midpoint Price, through such Users' use of the proposed new RML Order.

As described above, the proposed RML Program is comparable in purpose and effect to the IEX Retail Program, and the Commission recently approved several changes to the IEX Retail Program that make certain of its features substantially similar or substantively identical to proposed features of the RML Program.[46] Accordingly, the Exchange's proposal generally encourages competition between exchange venues. In this connection, the Exchange believes that the proposed distinctions between the Exchange's proposal and the approved IEX Retail Program will both enhance competition amongst market participants and encourage competition amongst exchange venues.

Section 6(b)(5) of the Act prohibits an exchange from establishing rules that treat market participants in an unfairly discriminatory manner. While the RML Program would differentiate among its Users, in that Retail Midpoint Orders may only be submitted by an RMO, as is the case with other Retail Orders on the Exchange today, the Exchange believes that such differentiation is not unfairly discriminatory but rather is designed to promote a competitive process for retail executions while providing retail investors with the potential to receive meaningful price improvement. In addition to the

[43] A Displayed instruction is an instruction a User may attach to an order stating that the order is to be displayed by the System on the MEMX Book. *See* Exchange Rule 11.6(c)(1).

[44] 15 U.S.C. 78f(b).

[45] 15 U.S.C. 78f(b)(5).

[46] *See* IEX Retail Approval Order, *supra* note 14.

Exchange's existing rules relating to Retail Orders,[47] there is ample precedent for differentiation of retail order flow in the existing approved programs of other national securities exchanges,[48] including the IEX Retail Program, as described in the Purpose section. As the Commission has recognized, retail order segmentation was designed to create additional competition for retail order flow, leading additional retail order flow to the exchange environment and ensuring that retail investors benefit from the better price that liquidity providers are willing to give their orders.[49]

The Commission consistently highlights the need to ensure that the U.S. capital markets are structured with the interests of retail investors in mind, and highlighted its focus on the ''long-term interests of Main Street investors'' as its number one strategic goal for fiscal years 2018 to 2022 in the Commission Strategic Plan.[50] The Exchange believes its proposed RML Program would serve the retail investing public by providing them with the opportunity for meaningful price improvement on eligible trades.

The Exchange notes that several other national securities exchanges, including IEX as described herein, have for several years operated retail liquidity programs that include market segmentation whereby retail orders are permitted to interact with specified price-improving liquidity or receive execution priority.[51] The Exchange understands that these programs were designed to promote competition for retail order flow among execution venues, most of which continues to be executed in the OTC markets rather than on exchanges. Similarly, the Exchange's proposed RML Program is designed to provide an additional competitive alternative for retail orders to receive price improvement. The Exchange believes that it is appropriate to provide incentives to bring more retail order flow to a public exchange. As described in the Purpose section, these incentives include the opportunity for Retail Orders to receive meaningful price improvement at the Midpoint Price (or better if there is resting liquidity priced more aggressively than the Midpoint Price) through RMOs' use of the proposed Retail Midpoint Order by providing all Users with the opportunity to provide price-improving liquidity to such orders through Users' use of the proposed RML Order.

Definitions

The Exchange believes that it is consistent with the Act for a Retail Midpoint Order to be a Retail Order that is a Midpoint Peg Order with a TIF instruction of IOC, as this is designed to ensure that such orders are entered on behalf of retail investors[52] and will receive price improvement at the Midpoint Price when executing against resting RML Orders and Eligible Midpoint Peg Orders. Similarly, the Exchange believes that it is consistent with the Act for an RML Order to be a Midpoint Peg Order with a TIF instruction of Day, RHO, or GTT, as this is designed to ensure that such orders are able to post to the MEMX Book and will provide price improvement at the Midpoint Price to retail investors when executing against incoming Retail Midpoint Orders. The Exchange also believes that it is appropriate and consistent with the Act for Retail Midpoint Orders and RML Orders to not be eligible for routing because, as noted above, such orders are designed to execute on the Exchange against each other and, as Pegged Orders, are not eligible for routing under the Exchange's current rules relating to Pegged Orders.

The Exchange further believes that it is consistent with the Act to structure its RML Program to provide a mechanism whereby liquidity-providing Users can provide price-improving liquidity at the Midpoint Price specifically to retail investors (*i.e.,* through the use of RML Orders), and liquidity-removing RMOs submitting orders on behalf of retail investors can interact with such price-improving liquidity. This structure would thus facilitate the interaction of such liquidity-providing Users with the orders of retail investors, which the Exchange believes is desirable for certain Users, as described above, while avoiding the possibility of such liquidity-providing Users unintentionally interacting with another type of market participant. Accordingly, the Exchange believes that it is consistent with the Act for RML Orders to only execute against Retail Midpoint Orders so as to incentivize the entry of RML Orders and thereby provide meaningful price improvement to retail investors. Further, as noted above, the concept of an order type that is only eligible to interact with a specific contra-side order type has previously been approved by the Commission in the context of liquidity-providing orders for retail programs.[53]

The Exchange notes that use of the RML Order and Retail Midpoint Order types is completely voluntary and reiterates that Users (including RMOs) may continue to submit their orders (including Retail Orders) to the Exchange to execute against the various other order types offered by the Exchange, at prices different than the Midpoint Price, outside of the RML Program as they can today.

The Exchange also believes that it is consistent with the Act to enable a User submitting a non-RML Midpoint Peg Order to include an instruction that such order is eligible to execute against Retail Midpoint Orders through the execution process described in proposed Exchange Rule 11.22(c) (*i.e.,* to designate such order as an Eligible Midpoint Peg Order) so that incoming Retail Midpoint Orders submitted on behalf of retail investors have a larger potential pool of midpoint liquidity to interact with, and thus, a greater chance of being filled. Additionally, the Exchange believes that allowing Users to choose whether they would like their non-RML Midpoint Peg Orders to execute against Retail Midpoint Orders in the RML Program where such orders may be subject to a different fee structure, as described above, would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system, as such optionality would enable these Users to more effectively control their economics in a manner that is consistent with order instructions available on other U.S. equity exchanges today.[54] The Exchange reiterates that regardless of whether the User chooses to designate a non-RML Midpoint Peg Order as an Eligible Midpoint Peg Order, such order would remain available on the MEMX Book where it is accessible to all market participants outside of the RML Program as it is today.

For the foregoing reasons, the Exchange believes that the proposed definitions of Retail Midpoint Order, RML Order, and Eligible Midpoint Peg Order, as well as the proposed structure of the RML Program, which is designed

[47] *See* Exchange Rule 11.21.

[48] *See infra* note 51.

[49] *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR–NYSE–2018–28) (order approving NYSE's Retail Liquidity Program on a permanent basis).

[50] *See* Commission Strategic Plan, *supra* note 12.

[51] *See* IEX Rule 11.232. *See also* NYSE Rule 107C, NYSE Arca Equities Rule 7.44, Cboe EDGX Rule 11.9(a)(2)(A) and (B), Cboe BYX Rule 11.24, and Nasdaq BX Rule 4780.

[52] An RMO must exercise due diligence and monitor orders that it enters as Retail Orders to ensure that such orders originate from natural persons (*i.e.,* retail investors). *See* Exchange Rule 11.21(b)(6).

[53] *See supra* note 23 and accompanying text (describing the IEX RLP Order).

[54] *See supra* note 26 and accompanying text.

to facilitate executions of Retail Midpoint Orders and RML Orders against each other at the Midpoint Price (and also permits Retail Midpoint Orders to execute against other orders priced more aggressively than the Midpoint Price and against Eligible Midpoint Peg Orders at the Midpoint Price), are designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and further the investor protection and public interest objectives of Section 6(b) of the Act, by establishing a simple, transparent structure that is designed to facilitate the provision of meaningful price improvement for orders of retail investors.

Retail Liquidity Identifier

The Exchange believes that it is consistent with the Act to disseminate a Retail Liquidity Identifier in connection with its RML Program, as described in the Purpose section. The purpose of the Retail Liquidity Identifier is to provide relevant market information to RMOs that there is available RML Interest on the Exchange. The dissemination is thus designed to augment the total mix of information available to RMOs that may benefit the Retail Orders they represent by encouraging RMOs to send such retail liquidity as Retail Midpoint Orders designed to receive price improvement by executing at the Midpoint Price against available RML Interest. As noted above, the proposed Retail Liquidity Identifier is substantively identical to the Retail Liquidity Identifier disseminated by IEX, which was recently approved by the Commission, and is consistent with the SIP Plans' requirements. As such, the Exchange believes that adopting this same implementation for its Retail Liquidity Identifier is consistent with the Act, as it would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system, and does not raise any novel issues for the Commission to consider.

The Exchange also believes that removing the Retail Liquidity Identifier previously disseminated through the MEMOIR Depth and MEMOIR Top data products and through the appropriate SIP after executions against Retail Midpoint Orders have depleted the available RML Interest such that the remaining RML Interest does not aggregate to form at least one round lot is consistent with the Act, as it would increase transparency in the market by indicating to RMOs that there is no longer RML Interest of at least one round lot available, which the Exchange believes would reduce the amount of Retail Midpoint Orders sent to the Exchange that are cancelled back to the User when there is no actionable RML Interest to execute against. In this regard, the Exchange believes that its proposed implementation of the Retail Liquidity Identifier would foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system. As noted above, the Exchange also believes this implementation is consistent with the implementation of the other exchanges that disseminate Retail Liquidity Identifiers.

Priority and Order Execution

The Exchange further believes that its priority and order execution approach for the RML Program is consistent with the Act. As discussed above, the RML Program is designed to incentivize RMOs to submit Retail Midpoint Orders to the Exchange to receive meaningful price improvement while simultaneously incentivizing Users and their clients to enter additional non-displayed interest in the form of RML Orders that will only trade with, and offer meaningful price improvement to, Retail Midpoint Orders. Thus, the proposed RML Program is designed to facilitate the provision of meaningful price improvement for orders of retail investors.

The Exchange believes that it is appropriate and consistent with the Act to structure its RML Program such that Retail Midpoint Orders and RML Orders are only eligible to execute against each other at the Midpoint Price, so that Retail Midpoint Orders, which are entered on behalf of retail investors, receive price improvement that is meaningful by definition, as they are guaranteed, if executed against an RML Order, to execute at the Midpoint Price (or better if there is more aggressively priced liquidity resting on the MEMX Book that it executes against first). The Exchange believes that introducing a program that provides and encourages additional liquidity and price improvement to Retail Orders, in the form of Retail Midpoint Orders designed to execute at the Midpoint Price, is appropriate because retail investors are typically less sophisticated than professional market participants and therefore would not have the type of technology to enable them to compete with such market participants. Therefore, the Exchange believes that it is consistent with the public interest and the protection of investors to provide retail investors with these enhanced execution opportunities.

Additionally, as discussed above, the Exchange believes that the opportunity to obtain meaningful price improvement should operate as a powerful incentive for RMOs to send Retail Orders to the Exchange in the form of Retail Midpoint Orders, thereby contributing to the Exchange's midpoint activity to the benefit of all Users. While the Exchange currently permits Users to post non-displayed liquidity priced to execute at the Midpoint Price, a key aspect of the proposed RML Program is to further incentivize Users and their clients that do not typically post orders at the Midpoint Price on the Exchange to enter additional non-displayed interest that will trade with incoming Retail Orders and offer meaningful price improvement at the Midpoint Price.

In addition, the proposal to execute Retail Midpoint Orders against RML Orders at the Midpoint Price is also designed to facilitate RMOs' compliance with their best execution obligations when acting as agent on behalf of a Retail Order.[55] Specifically, as noted in FINRA Regulatory Notice 15–46 (Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets), when conducting its review of execution quality in any security, a firm should consider, among other things, whether it could obtain mid-point price improvement on one venue versus less price improvement on another venue.[56] For these reasons, the Exchange believes that this aspect of the proposal would foster cooperation and coordination with persons engaged in facilitating transactions in securities and remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that first executing a Retail Midpoint Order against any resting Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price ahead of RML Orders is consistent with the Act because doing

[55] All Users that handle customer orders as agent are required to be FINRA members, and therefore are subject to FINRA guidance. *See* 17 CFR 240.15b9–1(a).

[56] *See* FINRA Regulatory Notice 15–46, endnote 25, available at *https://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-46.pdf.*

so ensures that the priority of more aggressively priced orders is maintained on the Exchange, as described above. Maintaining price priority in this regard, consistent with its current rules and general principles of order execution on other U.S. equity exchanges, as described above, reflects the Exchange's overall goal of incentivizing Users to submit aggressively priced orders to the Exchange, which contribute to the overall market quality and attract liquidity on the Exchange, thereby promoting just and equitable principles of trade and removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The Exchange further believes that it is appropriate and consistent with the Act to execute a Retail Midpoint Order against resting Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price at the prices at which such orders are ranked on the MEMX Book as doing so would maintain price priority on the Exchange, as described above, in a manner that would enable an RMO entering a Retail Midpoint Order to capture better prices available on the MEMX Book while seeking out midpoint liquidity through the RML Program, and then pass along this additional price improvement to retail investors. In this regard, the Exchange believes that providing retail investors with these enhanced execution opportunities is consistent with the public interest and the protection of investors as well as the Commission's goal to encourage markets that are structured to benefit ordinary investors. In addition, the proposal to execute Retail Midpoint Orders against Displayed Odd Lot Orders and/or Non-Displayed Orders priced more aggressively than the Midpoint Price at the prices at which such orders are ranked on the MEMX Book would also facilitate RMOs' compliance with their best execution obligations when acting as agent on behalf of a Retail Order for the same reasons described above with respect to execution against RML Orders at the Midpoint Price, thereby fostering cooperation and coordination with persons engaged in facilitating transactions in securities and removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The Exchange believes that executing Retail Midpoint Orders against RML Orders, which contribute to the dissemination of the Retail Liquidity Identifier, ahead of Eligible Midpoint Peg Orders, which do not contribute to the dissemination of the Retail Liquidity Identifier, is consistent with the Act, because, as noted above, the Exchange believes that dissemination of the Retail Liquidity Identifier is likely to be the principal factor in attracting RMOs to send Retail Midpoint Orders, as it signals to the market that there is available midpoint liquidity on the Exchange and thus increases the likelihood of execution for such orders. As noted above, while certain market participants may not ordinarily post liquidity at the Midpoint Price on exchanges due to adverse selection risks, the Exchange believes that they may be willing to do so if they can limit their interactions to Retail Orders (*i.e.,* through the use of RML Orders). However, the Exchange recognizes that entering RML Orders involves some additional risk for those market participants as the Retail Liquidity Identifier will signal that there is a buyer or seller that is willing to trade with retail investors at the Midpoint Price. Thus, the RML Program seeks to balance the risks and incentives associated with entering RML Orders, which contribute to the dissemination of the Retail Liquidity Identifier but only interact with Retail Midpoint Orders, and Eligible Midpoint Peg Orders, which do not contribute to the dissemination of the Retail Liquidity Identifier but can interact with various market participants, through the relative execution priority of such orders.

Further, as described above, the proposed execution priority of RML Orders over Eligible Midpoint Peg Orders is similar to the priority afforded to orders that are displayed on the MEMX Book, which receive priority over non-displayed orders because they contribute to price discovery and attract additional liquidity to the Exchange. Therefore, the Exchange believes that it removes impediments to and perfects the mechanism of a free and open market and national market system to provide execution priority to RML Orders over Eligible Midpoint Orders to incentivize the submission of RML Orders, which contribute to market transparency and attract the submission of Retail Midpoint Orders. Additionally, the Exchange believes that providing such execution priority to RML Orders is not unfairly discriminatory since Users that wish to interact with Retail Midpoint Order flow would be free to determine whether to submit RML Orders that contribute to the dissemination of the Retail Liquidity Identifier and have execution priority when trading with incoming Retail Midpoint Orders, or instead enter Eligible Midpoint Peg Orders that remain non-displayed but cede execution priority to those RML Orders.

For the reasons set forth above, the Exchange believes that the proposed order priority under the RML Program is consistent with general principles of order priority on the Exchange and other U.S. equity exchanges, where orders at superior prices receive first priority and, at any particular price, orders that contribute to price discovery receive priority ahead of non-displayed orders that do not contribute to market transparency. As such, the Exchange believes that the proposed order priority under the RML Program is consistent with the Act and does not raise any novel issues for the Commission to consider.

In sum, the Exchange submits that the proposed RML Program is a simple, transparent approach designed to provide an opportunity for retail customers' orders to receive meaningful price improvement in a manner generally consistent with the approved retail programs of other exchanges as well as general principles of order priority on the Exchange and other U.S. equity exchanges. Thus, the Exchange believes that the proposed RML Program is consistent with the Act in that it is designed 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.

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. To the contrary, the Exchange believes that the proposed RML Program would enhance competition and execution quality for retail investors and would enhance competition for Users and their clients seeking to interact with retail liquidity.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition since competing venues have and can continue to adopt similar retail programs, subject to the SEC rule change process. The Exchange operates in a highly competitive market in which market participants can easily direct their orders to competing venues, including off-exchange venues.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket

competition that is not necessary or appropriate in furtherance of the purposes of the Act. As described above, a Retail Midpoint Order may only be submitted by firms approved to send Retail Orders on the Exchange (*i.e.,* RMOs), which is comparable to an IEX Retail Order offered under the IEX Retail Program and retail programs on other exchanges where specific rules have been approved allowing only certain participants to send Retail Orders.[57] All Users would be eligible to enter an RML Order or an Eligible Midpoint Peg Order that would be eligible to execute against an incoming Retail Midpoint Order. Moreover, the proposed rule change would provide potential benefits to all Users to the extent it is successful in attracting additional midpoint liquidity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1

Section 19(b)(2) of the Act[58] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The Initial Proposal was published for comment in the **Federal Register** on September 8, 2021.[59] The 180th day after publication of the Initial Proposal is March 7, 2022. The Commission is extending the time period for approving or disapproving the proposed rule change for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1, and the comments that have been submitted in connection therewith, including the comments received after the Commission instituted proceedings. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[60] designates May 6, 2022, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment No. 1 (File Number SR–MEMX–2021–10).

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2021–10 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–MEMX–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–MEMX–2021–10 and should be submitted on or before March 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–03022 Filed 2–11–22; 8:45 am]

BILLING CODE 8011–01–P

[57] *See supra* note 51.

[58] 15 U.S.C. 78s(b)(2).

[59] *See supra* note 3.

[60] 15 U.S.C. 78s(b)(2).

[61] 17 CFR 200.30–3(a)(12) and (57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94185; File No. SR–C2–2022–004]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

February 8, 2022.

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 February 1, 2022, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule in connection with the Index License Surcharge Fee for transactions in Dow Jones Industrial Average Index (''DJX'') options, effective February 1, 2022.

Specifically, the Exchange proposes to increase the Index License Surcharge Fee currently applicable to orders executed in DJX options in Index License Surcharge Fees table of the Fee Schedule. The Exchange currently assesses an Index License Surcharge Fee of $0.10 per contract for non-Public Customer orders executed in DJX options. The proposed rule change increases the Index License Surcharge Fee applicable to orders executed in DJX options from $0.10 per contract to $0.12 per contract. The Exchange notes that the Index License Surcharge Fee in place for DJX options is designed to recoup some of the costs associated with the licenses for this index.[3] The Exchange has recently renewed its license arrangements for its DJX index license and, as a result, the proposed rule change amends the Index License Surcharge Fee for DJX options in order to continue to offset some of the costs associated with the license for the index in light of the renewal of the license.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] 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 Section 6(b)(4) of the Act,[6] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes that it is reasonable to increase the amount of the Index License Surcharge Fee for orders in DJX options as the proposed increase is consistent with the purpose of such surcharge fee—it is intended to continue to help recoup some of the costs associated with the license for DJX index products in light of recently renewed license arrangements between the Exchange and the DJX index provider. The proposed Index License Surcharge Fee is also equitable and not unfairly discriminatory because the surcharge fee will continue to be assessed uniformly for all non-Customer orders in DJX options.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change in connection with the DJX Index License Surcharge Fee will impose any burden on intramarket competition because it applies uniformly to all similarly situated TPHs in a uniform manner (*i.e.,* to all non-Public Customer executions in DJX options). The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed amendment to the DJX Index License Surcharge Fee apply only to an Exchange proprietary product, which is traded exclusively on C2 and Cboe-affiliated options exchanges.

Additionally, the Exchange notes that it operates in a highly competitive market. TPHs have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges, as well as off-exchange venues, where competitive products are available for trading. Based on publicly available information, no single options exchange has more than 15% of the market share.[7] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [8] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . . ''.[9] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or

[3] *See* Securities Exchange Release No. 85855 (May 14, 2019), 84 FR 22916 (May 20, 2019) (SR–C2–2019–010).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] *See* Cboe Global Markets U.S. Options Market Volume Summary, Month-to-Date (January 26, 2022), available at *https://www.cboe.com/us/options/market_statistics/.*

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[9] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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–C2–2022–004 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–C2–2022–004. 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–C2–2022–004 and should be submitted on or before March 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–03020 Filed 2–11–22; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94186; File No. SR–CboeEDGX–2022–006]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

February 8, 2022.

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 February 1, 2022, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule by clarifying the definition of the existing fee code in connection with trades at the EDGX Options open and adopting a fee code in connection with trades at the open of the Complex Order Book (''COB''), effective February 1, 2022.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 15% of the market share and currently the Exchange represents only approximately 4.5% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options exchange,

[3] *See* Cboe Global Markets U.S. Options Market Monthly Volume Summary (January 26, 2022), available at *https://markets.cboe.com/us/options/market_statistics/.*

including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange's Fees Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides standard rebates ranging from $0.01 up to $0.21 per contract for Customer orders in both Penny and Non-Penny Securities. The Fee Codes and Associated Fees section of the Fees Schedule also provides for certain fee codes associated with certain order types and market participants that provide for various other fees or rebates. Fee code OO, for example, is appended to all orders executed (*i.e.,* in any capacity) as part of the EDGX Options opening and assesses no fee. The Exchange proposes to amend the definition of fee code OO to clarify that it applies to orders executed as part of the EDGX Options opening on the simple order book,[4] and proposes to adopt fee code OC, which applies to all orders executed as part of the EDGX Options opening on the COB and assesses no fee.[5] The proposed rule change is merely intended to add clarity regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its different order books. All orders executed on the open, whether the open for the simple order book or the COB, will continue to transact free of charge. The Exchange notes that the Fee Schedule of the Exchange's affiliated options exchange, Cboe C2 Exchange, Inc. (''C2 Options'') applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the 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.

In particular, the Exchange believes that the proposed rule change is reasonable as it is intended to provide additional clarity in the Fee Schedule regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its simple order book and COB and all orders executed on either open may transact free of charge. The Exchange again notes that the C2 Options Fee Schedule applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.[10] The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory as fee codes OO and OC apply automatically and uniformly to all orders executed upon the open of the simple order book or COB, respectively.

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 that the proposed rule change will impose any burden on intramarket competition because fee codes OO and OC apply automatically and uniformly to all orders executed upon the open of the simple order book or COB, respectively. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition because the proposed rule change is merely intended to provide additional clarity in the Fee Schedule regarding the fee codes that apply in connection with orders that participate in the Exchange's opening processes for its simple order book and COB and all orders executed on either open may continue to transact free of charge. The Exchange again notes that the C2 Options Fee Schedule applies substantively identical fee codes for trades at the open of its simple order book and for trades at the open of its complex order book.[11] Also, as previously discussed, the Exchange operates in a highly competitive market. TPHs have numerous alternative venues they may participate on and direct their order flow, including 15 other options exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 15% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange believes that the proposed fee changes are comparable to that of other exchanges offering similar functionality. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its

[4] *See* Securities Exchange Act Release No. 76453 (November 17, 2015), 80 FR 72999 (November 23, 2015) (SR–EDGX–2015–56), which provides that an order that participates in the EDGX Options opening process under Exchange Rule 21.7 would yield fee code OO. Rule 21.7 governs the opening auction process for the Exchange's simple order book.

[5] The proposed rule change also adds fee code OC to the ''Complex Order Types'' table under footnote 8 of the Fee Schedule.

[6] *See* C2 Options Fee Schedule, Fee Codes and Associated Fees, fee codes OO and OC.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See supra* note 6.

[11] *See supra* note 6.

market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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–CboeEDGX–2022–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2022–006. 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–CboeEDGX–2022–006 and should be submitted on or before March 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–03021 Filed 2–11–22; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94184; File No. SR–CboeBZX–2022–006]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the WisdomTree Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

February 8, 2022.

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 January 25, 2022, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes rule change to list and trade shares of the WisdomTree Bitcoin Trust (the ''Trust''),[3] under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The shares of the Trust are referred to herein as the ''Shares.''

The text of the proposed rule change is available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),[4] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[5] [6] WisdomTree

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Trust was formed as a Delaware statutory trust on March 8, 2021 and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

[4] The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

Digital Commodity Services, LLC is the sponsor of the Trust (the ''Sponsor''). The Shares will be registered with the Commission by means of the Trust's registration statement on Form S–1 (the ''Registration Statement'').[7] As further discussed below, the Commission has historically approved or disapproved exchange filings to list and trade series of Trust Issued Receipts, including spot-based Commodity-Based Trust Shares, on the basis of whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size related to the underlying commodity.[8] A survey of previously approved series of Commodity-Based Trust Shares and Currency Trust Shares makes clear that the spot markets for commodities and currencies held in such ETPs are generally unregulated. In fact, the Commission specifically noted in the Winklevoss Order that the first gold ETP approval order, which was also the first commodity-trust ETP, ''was based on an assumption that the currency market and the spot gold market were largely unregulated.'' [9] This makes clear that the applicable standard is not whether the underlying commodity market itself is regulated. Further to this point, prior orders have also emphasized that in every prior approval order for Commodity-Based Trust Shares there was a regulated derivatives market of significant size, generally a Commodity Futures Trading Commission (the ''CFTC'') regulated futures market.[10]

Despite the lack of regulation of the underlying spot commodity and currency markets, the Commission approved series of Currency and Commodity-Based Trust Shares, including those that held gold, silver,

The Exchange notes that a different proposal to list and trade shares of the WisdomTree Bitcoin Trust was disapproved by the Commission on December 1, 2021. *See* Exchange Act Release No. 93700 (December 1, 2021), 86 FR 69322 (December 7, 2021). The Sponsor has subsequently submitted an amended Registration Statement that includes a number of additional voluntary disclosures and shareholder protections that the Sponsor intends to undertake. This proposal is also significantly different than the previously disapproved proposal in that it includes additional information related to such voluntary disclosures and protections, additional information related to Bitcoin Futures ETFs, as defined below, and additional statistical and statutory analysis that seeks to respond to the concerns of the Commission.

[7] The Trust has filed an amended registration statement on Form S–1 under the Securities Act of 1933, dated December 8, 2021 (File No. 333–254134) (''Registration Statement''). The description of the Trust and the Shares contained herein are based on the Registration Statement. The Registration Statement for the Trust is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[8] *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018). This proposal was subsequently disapproved by the Commission. *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the ''Winklevoss Order'').

[9] *See* Winklevoss Order at 37592 and Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614 (Nov. 5, 2004) (SR–NYSE–2004–22) (order approving the listing and trading of streetTRACKS Gold Shares) (the ''First Gold Approval Order'').

[10] *See* Winklevoss Order at 37592. *See also* the First Gold Approval Order at 64618–19; iShares COMEX Gold Trust, Exchange Act Release No. 51058 (Jan. 19, 2005), 70 FR 3749, 3751, 3754–55 (Jan. 26, 2005) (SR–Amex–2004–38); iShares Silver Trust, Exchange Act Release No. 53521 (Mar. 20, 2006), 71 FR 14967, 14968, 14973–74 (Mar. 24, 2006) (SR–Amex–2005–072); ETFS Gold Trust, Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993, 22994–95, 22998, 23000 (May 15, 2009) (SR–NYSEArca–2009–40); ETFS Silver Trust, Exchange Act Release No. 59781 (Apr. 17, 2009), 74 FR 18771, 18772, 18775–77 (Apr. 24, 2009) (SR–NYSEArca–2009–28); ETFS Palladium Trust, Exchange Act Release No. 61220 (Dec. 22, 2009), 74 FR 68895, 68896 (Dec. 29, 2009) (SR–NYSEArca–2009–94) (notice of proposed rule change included NYSE Arca's representation that ''[t]he most significant palladium futures exchanges are the NYMEX and the Tokyo Commodity Exchange,'' that ''NYMEX is the largest exchange in the world for trading precious metals futures and options,'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which NYMEX is a member, Exchange Act Release No. 60971 (Nov. 9, 2009), 74 FR 59283, 59285–86, 59291 (Nov. 17, 2009)); ETFS Platinum Trust, Exchange Act Release No. 61219 (Dec. 22, 2009), 74 FR 68886, 68887–88 (Dec. 29, 2009) (SR–NYSEArca–2009–95) (notice of proposed rule change included NYSE Arca's representation that ''[t]he most significant platinum futures exchanges are the NYMEX and the Tokyo Commodity Exchange,'' that ''NYMEX is the largest exchange in the world for trading precious metals futures and options,'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which NYMEX is a member, Exchange Act Release No. 60970 (Nov. 9, 2009), 74 FR 59319, 59321, 59327 (Nov. 17, 2009)); Sprott Physical Gold Trust, Exchange Act Release No. 61496 (Feb. 4, 2010), 75 FR 6758, 6760 (Feb. 10, 2010) (SR–NYSEArca–2009–113) (notice of proposed rule change included NYSE Arca's representation that the COMEX is one of the ''major world gold markets,'' that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' and that NYMEX, of which COMEX is a division, is a member of the Intermarket Surveillance Group, Exchange Act Release No. 61236 (Dec. 23, 2009), 75 FR 170, 171, 174 (Jan. 4, 2010)); Sprott Physical Silver Trust, Exchange Act Release No. 63043 (Oct. 5, 2010), 75 FR 62615, 62616, 62619, 62621 (Oct. 12, 2010) (SR–NYSEArca–2010–84); ETFS Precious Metals Basket Trust, Exchange Act Release No. 62692 (Aug. 11, 2010), 75 FR 50789, 50790 (Aug. 17, 2010) (SR–NYSEArca–2010–56) (notice of proposed rule change included NYSE Arca's representation that ''the most significant gold, silver, platinum and palladium futures exchanges are the COMEX and the TOCOM'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which COMEX is a member, Exchange Act Release No. 62402 (Jun. 29, 2010), 75 FR 39292, 39295, 39298 (July 8, 2010)); ETFS White Metals Basket Trust, Exchange Act Release No. 62875 (Sept. 9, 2010), 75 FR 56156, 56158 (Sept. 15, 2010) (SR–NYSEArca–2010–71) (notice of proposed rule change included NYSE Arca's representation that ''the most significant silver, platinum and palladium futures exchanges are the COMEX and the TOCOM'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which COMEX is a member, Exchange Act Release No. 62620 (July 30, 2010), 75 FR 47655, 47657, 47660 (Aug. 6, 2010)); ETFS Asian Gold Trust, Exchange Act Release No. 63464 (Dec. 8, 2010), 75 FR 77926, 77928 (Dec. 14, 2010) (SR–NYSEArca–2010–95) (notice of proposed rule change included NYSE Arca's representation that ''the most significant gold futures exchanges are the COMEX and the Tokyo Commodity Exchange,'' that ''COMEX is the largest exchange in the world for trading precious metals futures and options,'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which COMEX is a member, Exchange Act Release No. 63267 (Nov. 8, 2010), 75 FR 69494, 69496, 69500–01 (Nov. 12, 2010)); Sprott Physical Platinum and Palladium Trust, Exchange Act Release No. 68430 (Dec. 13, 2012), 77 FR 75239, 75240–41 (Dec. 19, 2012) (SR–NYSEArca–2012–111) (notice of proposed rule change included NYSE Arca's representation that ''[f]utures on platinum and palladium are traded on two major exchanges: The New York Mercantile Exchange ... and Tokyo Commodities Exchange'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which COMEX is a member, Exchange Act Release No. 68101 (Oct. 24, 2012), 77 FR 65732, 65733, 65739 (Oct. 30, 2012)); APMEX Physical—1 oz. Gold Redeemable Trust, Exchange Act Release No. 66930 (May 7, 2012), 77 FR 27817, 27818 (May 11, 2012) (SR–NYSEArca–2012–18) (notice of proposed rule change included NYSE Arca's representation that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' of which COMEX is a member, and that gold futures are traded on COMEX and the Tokyo Commodity Exchange, with a cross-reference to the proposed rule change to list and trade shares of the ETFS Gold Trust, in which NYSE Arca represented that COMEX is one of the ''major world gold markets,'' Exchange Act Release No. 66627 (Mar. 20, 2012), 77 FR 17539, 17542–43, 17547 (Mar. 26, 2012)); JPM XF Physical Copper Trust, Exchange Act Release No. 68440 (Dec. 14, 2012), 77 FR 75468, 75469–70, 75472, 75485–86 (Dec. 20, 2012) (SR–NYSEArca–2012–28); iShares Copper Trust, Exchange Act Release No. 68973 (Feb. 22, 2013), 78 FR 13726, 13727, 13729–30, 13739–40 (Feb. 28, 2013) (SR–NYSEArca–2012–66); First Trust Gold Trust, Exchange Act Release No. 70195 (Aug. 14, 2013), 78 FR 51239, 51240 (Aug. 20, 2013) (SR–NYSEArca–2013–61) (notice of proposed rule change included NYSE Arca's representation that FINRA, on behalf of the exchange, may obtain trading information regarding gold futures and options on gold futures from members of the Intermarket Surveillance Group, including COMEX, or from markets ''with which [NYSE Arca] has in place a comprehensive surveillance sharing agreement,'' and that gold futures are traded on COMEX and the Tokyo Commodity Exchange, with a cross-reference to the proposed rule change to list and trade shares of the ETFS Gold Trust, in which NYSE Arca represented that COMEX is one of the ''major world gold markets,'' Exchange Act Release No. 69847 (June 25, 2013), 78 FR 39399, 39400, 39405 (July 1, 2013)); Merk Gold Trust, Exchange Act Release No. 71378 (Jan. 23, 2014), 79 FR 4786, 4786–87 (Jan. 29, 2014) (SR–NYSEArca–2013–137) (notice of proposed rule change included NYSE Arca's representation that ''COMEX is the largest gold futures and options exchange'' and that NYSE Arca ''may obtain trading information via the Intermarket Surveillance Group,'' including with respect to transactions occurring on COMEX pursuant to CME and NYMEX's membership, or from exchanges ''with which [NYSE Arca] has in place a comprehensive surveillance sharing agreement,'' Exchange Act Release No. 71038 (Dec. 11, 2013), 78 FR 76367, 76369, 76374 (Dec. 17, 2013)); Long Dollar Gold Trust, Exchange Act Release No. 79518 (Dec. 9, 2016), 81 FR 90876, 90881, 90886, 90888 (Dec. 15, 2016) (SR–NYSEArca–2016–84).

platinum, palladium, copper, and other commodities and currencies, because it determined that the futures markets for these commodities and currencies represented regulated markets of significant size and that the listing exchange had a surveillance sharing agreement in place with that market.[11]

The Exchange acknowledges that largely unregulated currency and spot commodity markets do not provide the same protections as the markets that are subject to the Commission's oversight. However, the Commission has consistently looked to surveillance sharing agreements with an underlying futures market to determine whether ETPs holding currency or commodities were consistent with the Act, as established above. As such, the Commission's regulated market of significant size test does not require that the spot bitcoin market be regulated to approve this proposal. To the contrary, precedent makes clear that any requirement that the spot bitcoin market be a ''regulated market'' prior to approval would be incongruous with all prior spot commodity and currency approval orders. With this in mind, the CME Bitcoin Futures market is the proper market for the Commission to consider in determining whether this proposal is consistent with the Act. The Exchange has a comprehensive surveillance sharing agreement in place with CME, which operates a bitcoin futures market that, as established by the included analysis below, represents a regulated market of significant size related to the underlying commodity (bitcoin) to be held by the Trust. Therefore, both the Exchange and the Sponsor believe that the CME Bitcoin Futures market satisfies the standard that the Commission has applied to all previously approved series of Commodity-Based Trust Shares and that this proposal should be approved.

Background

Bitcoin is a digital asset based on the decentralized, open source protocol of the peer-to-peer computer network launched in 2009 that governs the creation, movement, and ownership of bitcoin and hosts the public ledger, or ''blockchain,'' on which all bitcoin transactions are recorded (the ''Bitcoin Network'' or ''Bitcoin''). The decentralized nature of the Bitcoin Network allows parties to transact directly with one another based on cryptographic proof instead of relying on a trusted third party. The protocol also lays out the rate of issuance of new bitcoin within the Bitcoin Network, a rate that is reduced by half approximately every four years with an eventual hard cap of 21 million. It's generally understood that the combination of these two features—a systemic hard cap of 21 million bitcoin and the ability to transact trustlessly with anyone connected to the Bitcoin Network—gives bitcoin its value.[12]

The first rule filing proposing to list an exchange-traded product to provide exposure to bitcoin in the U.S. was submitted by the Exchange on June 30, 2016.[13] At that time, blockchain technology, and digital assets that utilized it, were relatively new to the broader public. The market cap of all bitcoin in existence at that time was approximately $10 billion. No registered offering of digital asset securities or shares in an investment vehicle with exposure to bitcoin or any other cryptocurrency had yet been conducted, and the regulated infrastructure for conducting a digital asset securities offering had not begun to develop.[14] Similarly, regulated U.S. bitcoin futures contracts did not exist. The CFTC had determined that bitcoin is a commodity,[15] but had not engaged in significant enforcement actions in the space. The New York Department of Financial Services (''NYDFS'') adopted its final BitLicense regulatory framework in 2015, but had only approved four entities to engage in activities relating to virtual currencies (whether through granting a BitLicense or a limited-purpose trust charter) as of June 30, 2016.[16] While the first over-the-counter bitcoin fund launched in 2013, public trading was limited and the fund had only $60 million in assets.[17] There were very few, if any, traditional financial institutions engaged in the space, whether through investment or providing services to digital asset companies. In January 2018, the Staff of the Commission noted in a letter to the Investment Company Institute and SIFMA that it was not aware, at that time, of a single custodian providing fund custodial services for digital assets.[18]

Fast forward to the fourth quarter of 2021 and the digital assets financial ecosystem, including bitcoin, has progressed significantly. The development of a regulated market for digital asset securities has significantly evolved, with market participants having conducted registered public offerings of both digital asset securities [19] and shares in investment vehicles holding bitcoin futures.[20] Additionally, licensed and regulated service providers have emerged to provide fund custodial services for digital assets, among other services. For example, in May 2021, the Staff of the Commission released a statement permitting open-end mutual funds to invest in cash-settled bitcoin futures; in December 2020, the Commission adopted a conditional no-action position permitting certain special purpose broker-dealers to custody digital asset securities under Rule 15c3–3 under the Exchange Act (the ''Custody Statement''); [21] in September 2020, the Staff of the Commission released a no-

[11] *Id.*

[12] For additional information about bitcoin and the Bitcoin Network, *see https://bitcoin.org/en/getting-started; https://www.wisdomtree.com/strategies/crypto; https://www.fidelitydigitalassets.com/articles/addressing-bitcoin-criticisms;* and *https://www.vaneck.com/education/investment-ideas/investing-in-bitcoin-and-digital-assets/.*

[13] *See* Winklevoss Order.

[14] Digital assets that are securities under U.S. law are referred to throughout this proposal as ''digital asset securities.'' All other digital assets, including bitcoin, are referred to interchangeably as ''cryptocurrencies'' or ''virtual currencies.'' The term ''digital assets'' refers to all digital assets, including both digital asset securities and cryptocurrencies, together.

[15] *See* ''In the Matter of Coinflip, Inc.'' (''Coinflip'') (CFTC Docket 15–29 (September 17, 2015)) (order instituting proceedings pursuant to Sections 6(c) and 6(d) of the CEA, making findings and imposing remedial sanctions), in which the CFTC stated:

''Section 1a(9) of the CEA defines 'commodity' to include, among other things, 'all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.' 7 U.S.C. 1a(9). The definition of a 'commodity' is broad. *See, e.g.,* Board of Trade of City of Chicago v. SEC, 677 F. 2d 1137, 1142 (7th Cir. 1982). Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities.''

[16] A list of virtual currency businesses that are entities regulated by the NYDFS is available on the NYDFS website. *See https://www.dfs.ny.gov/apps_and_licensing/virtual_currency_businesses/regulated_entities.*

[17] Data as of March 31, 2016 according to publicly available filings. *See* Bitcoin Investment Trust Form S–1, dated May 27, 2016, available: *https://www.sec.gov/Archives/edgar/data/1588489/000095012316017801/filename1.htm.*

[18] *See* letter from Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission to Paul Schott Stevens, President & CEO, Investment Company Institute and Timothy W. Cameron, Asset Management Group—Head, Securities Industry and Financial Markets Association (January 18, 2018), *available at https://www.sec.gov/divisions/investment/noaction/2018/cryptocurrency-011818.htm.*

[19] *See* Prospectus supplement filed pursuant to Rule 424(b)(1) for INX Tokens (Registration No. 333–233363), *available at: https://www.sec.gov/Archives/edgar/data/1725882/000121390020023202/ea125858-424b1_inxlimited.htm.*

[20] *See* Prospectus filed by Stone Ridge Trust VI on behalf of NYDIG Bitcoin Strategy Fund Registration, *available at: https://www.sec.gov/Archives/edgar/data/1764894/000119312519309942/d693146d497.htm.*

[21] *See* Securities Exchange Act Release No. 90788, 86 FR 11627 (February 26, 2021) (File Number S7–25–20) (Custody of Digital Asset Securities by Special Purpose Broker-Dealers).

action letter permitting certain broker-dealers to operate a non-custodial Alternative Trading System (''ATS'') for digital asset securities, subject to specified conditions; [22] and in October 2019, the Staff of the Commission granted temporary relief from the clearing agency registration requirement to an entity seeking to establish a securities clearance and settlement system based on distributed ledger technology,[23] and multiple transfer agents who provide services for digital asset securities registered with the Commission.[24]

Outside the Commission's purview, the regulatory landscape has changed significantly since 2016, and cryptocurrency markets have grown and evolved as well. The market for bitcoin is approximately 100 times larger, with a market cap of over $1 trillion.[25] According to the CME Bitcoin Futures Report, from October 25, 2021 through November 19, 2021, CFTC regulated bitcoin futures represented approximately $2.9 billion in notional trading volume on Chicago Mercantile Exchange (''CME'') (''CME Bitcoin Futures'') on a daily basis and notional volume was never below $1.2 billion per day.[26] Open interest was over $4 billion for the entirety of the period and at one point reached $5.5 billion. The CFTC has exercised its regulatory jurisdiction in bringing a number of enforcement actions related to bitcoin and against trading platforms that offer cryptocurrency trading.[27] The U.S. Office of the Comptroller of the Currency (the ''OCC'') has made clear that federally-chartered banks are able to provide custody services for cryptocurrencies and other digital assets [28] and major U.S. banks that currently serve as asset custodians for investment companies registered under the Investment Company Act of 1940, as amended (''1940 Act''), are now serving, or have expressed an intention of serving, as bitcoin custodians.[29] One such bank, U.S. Bank, N.A., will be serving as the custodian of the Trust (the ''Custodian''). The OCC has also recently granted conditional approval of two charter conversions by state-chartered trust companies to national banks, both of which provide cryptocurrency custody services.[30] NYDFS has granted no fewer than twenty-five BitLicenses, including to established public payment companies like PayPal Holdings, Inc. and Square, Inc., and limited purpose trust charters to entities providing cryptocurrency custody services. The U.S. Treasury Financial Crimes Enforcement Network (''FinCEN'') has released extensive guidance regarding the applicability of the Bank Secrecy Act (''BSA'') and implementing regulations to virtual currency businesses,[31] and has proposed rules imposing requirements on entities subject to the BSA that are specific to the technological context of virtual currencies.[32] In addition, the Treasury's Office of Foreign Assets Control (''OFAC'') has brought enforcement actions over apparent violations of the sanctions laws in connection with the provision of wallet management services for digital assets.[33]

In addition to the regulatory developments laid out above, more traditional financial market participants have embraced and continue to embrace cryptocurrency: Large insurance companies,[34] asset managers,[35] university endowments,[36] pension funds,[37] and even historically bitcoin skeptical fund managers [38] are allocating to bitcoin. The largest over-the-counter bitcoin fund previously filed a Form 10 registration statement, which the Staff of the Commission reviewed and which took effect automatically, and is now a

[22] *See* letter from Elizabeth Baird, Deputy Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, Financial Industry Regulatory Authority (September 25, 2020), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2020/finra-ats-role-in-settlement-of-digital-asset-security-trades-09252020.pdf.*

[23] *See* letter from Jeffrey S. Mooney, Associate Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Charles G. Cascarilla & Daniel M. Burstein, Paxos Trust Company, LLC (October 28, 2019), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2019/paxos-trust-company-102819-17a.pdf.*

[24] *See, e.g.,* Form TA–1/A filed by Securrency Transfers, Inc. (CIK: 0001846640) on August 13, 2021, *available at https://www.sec.gov/Archives/edgar/data/0001846640/000184664021000006/xslFTA1X01/primary_doc.xml;* and Form TA–1/A filed by Tokensoft Transfer Agent LLC (CIK: 0001794142) on January 8, 2021, *available at: https://www.sec.gov/Archives/edgar/data/1794142/000179414219000001/xslFTA1X01/primary_doc.xml.*

[25] As of December 1, 2021, the total market cap of all bitcoin in circulation was approximately $1.08 trillion.

[26] Data sourced from the CME Bitcoin Futures Report: 19 Nov, 2021, *available at: https://www.cmegroup.com/ftp/bitcoinfutures/Bitcoin_Futures_Liquidity_Report.pdf.*

[27] The CFTC's annual report for Fiscal Year 2020 (which ended on September 30, 2020) noted that the CFTC ''continued to aggressively prosecute misconduct involving digital assets that fit within the CEA's definition of ''commodity'' and ''brought a record setting seven cases involving digital assets.'' *See* CFTC FY2020 Division of Enforcement Annual Report, *available at: https://www.cftc.gov/media/5321/DOE_FY2020_AnnualReport_120120/download.* Additionally, the CFTC filed on October 1, 2020, a civil enforcement action against the owner/operators of the BitMEX trading platform, which was one of the largest bitcoin derivative exchanges. *See* CFTC Release No. 8270–20 (October 1, 2020) *available at: https://www.cftc.gov/PressRoom/PressReleases/8270-20.*

[28] *See* OCC News Release 2021–2 (January 4, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2.html.*

[29] *See* U.S. Bank Announces New Cryptocurrenty Custodian Services for Institutional Investment Managers (October 5, 2021) *available at: https://ir.usbank.com/news-releases/news-release-details/us-bank-announces-new-cryptocurrency-custody-services.*

[30] *See* OCC News Release 2021–6 (January 13, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-6.html* and OCC News Release 2021–19 (February 5, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-19.html.*

[31] *See* FinCEN Guidance FIN–2019–G001 (May 9, 2019) (Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies) *available at: https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf.*

[32] *See* U.S. Department of the Treasury Press Release: ''The Financial Crimes Enforcement Network Proposes Rule Aimed at Closing Anti-Money Laundering Regulatory Gaps for Certain Convertible Virtual Currency and Digital Asset Transactions'' (December 18, 2020), *available at: https://home.treasury.gov/news/press-releases/sm1216.*

[33] *See* U.S. Department of the Treasury Enforcement Release: ''OFAC Enters Into $98,830 Settlement with BitGo, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions'' (December 30, 2020) *available at: https://home.treasury.gov/system/files/126/20201230_bitgo.pdf.*

[34] On December 10, 2020, Massachusetts Mutual Life Insurance Company (MassMutual) announced that it had purchased $100 million in bitcoin for its general investment account. *See* MassMutual Press Release ''Institutional Bitcoin provider NYDIG announces minority stake purchase by MassMutual'' (December 10, 2020) *available at: https://www.massmutual.com/about-us/news-and-press-releases/press-releases/2020/12/institutional-bitcoin-provider-nydig-announces-minority-stake-purchase-by-massmutual.*

[35] *See e.g.,* ''BlackRock's Rick Rieder says the world's largest asset manager has 'started to dabble' in bitcoin'' (February 17, 2021) *available at: https://www.cnbc.com/2021/02/17/blackrock-has-started-to-dabble-in-bitcoin-says-rick-rieder.html* and ''Guggenheim's Scott Minerd Says Bitcoin Should Be Worth $400,000'' (December 16, 2020) *available at: https://www.bloomberg.com/news/articles/2020-12-16/guggenheim-s-scott-minerd-says-bitcoin-should-be-worth-400-000.*

[36] *See e.g.,* ''Harvard and Yale Endowments Among Those Reportedly Buying Crypto'' (January 25, 2021) *available at: https://www.bloomberg.com/news/articles/2021-01-26/harvard-and-yale-endowments-among-those-reportedly-buying-crypto.*

[37] *See e.g.,* ''Virginia Police Department Reveals Why its Pension Fund is Betting on Bitcoin'' (February 14, 2019) *available at: https://finance.yahoo.com/news/virginia-police-department-reveals-why-194558505.html.*

[38] *See e.g.,* ''Bridgewater: Our Thoughts on Bitcoin'' (January 28, 2021) *available at: https://www.bridgewater.com/research-and-insights/our-thoughts-on-bitcoin* and ''Paul Tudor Jones says he likes bitcoin even more now, rally still in the 'first inning' '' (October 22, 2020) *available at: https://www.cnbc.com/2020/10/22/-paul-tudor-jones-says-he-likes-bitcoin-even-more-now-rally-still-in-the-first-inning.html.*

reporting company.[39] Established companies like Tesla, Inc.,[40] MicroStrategy Incorporated,[41] and Square, Inc.,[42] among others, have recently announced substantial investments in bitcoin in amounts as large as 43,200 BTC,[43] worth around $2.5 billion (Tesla) valued at a BTCUSD price of $60,000 and 121,043 BTC worth $7.2 billion (MicroStrategy). The foregoing examples demonstrate that bitcoin has gained mainstream usage and recognition.

Despite these developments, access for U.S. retail investors to gain exposure to bitcoin via a transparent and U.S. regulated, U.S. exchange-traded vehicle remains limited. Instead current options include: (i) Paying a potentially high premium (and high management fees) to buy over-the-counter bitcoin funds (''OTC Bitcoin Funds''), to the advantage of more sophisticated investors that are able to create shares at net asset value (''NAV'') directly with the issuing trust; [44] (ii) facing the technical risk, complexity and generally high fees associated with buying spot bitcoin; (iii) purchasing shares of operating companies that they believe will provide proxy exposure to bitcoin with limited disclosure about the associated risks; [45] or (iv) through the purchase of CME Bitcoin Futures ETFs, which represent a sub-optimal structure for long-term investors that will cost them collectively tens of millions of dollars every year, as further discussed below. Meanwhile, investors in many other countries, including Canada [46] and Brazil, are able to use more traditional exchange listed and traded products (including exchange-traded funds holding physical bitcoin) to gain exposure to bitcoin, disadvantaging U.S. investors and leaving them with more risky means of getting bitcoin exposure.[47] Additionally, investors in other countries and regions, specifically Canada and Europe, generally pay lower fees than U.S. retail investors that invest in OTC Bitcoin Funds due to the fee pressure that results from increased competition among available bitcoin investment options. Without an approved and regulated spot bitcoin ETP in the U.S. as a viable alternative, U.S. investors could seek to purchase shares of non-U.S. bitcoin vehicles in order to get access to bitcoin exposure. Given the separate regulatory regime and the potential difficulties associated with any international litigation, such an arrangement would create more risk exposure for U.S. investors than they would otherwise have with a U.S. exchange listed ETP. Further to this point, the lack of a U.S.-listed spot bitcoin ETP is not preventing U.S. funds from gaining exposure to bitcoin—several U.S. exchange-traded funds are using Canadian bitcoin ETPs to gain exposure to spot bitcoin. In addition to the benefits to U.S. investors articulated throughout this proposal, approving this proposal (and others like it) would provide U.S. exchange-traded funds with a U.S.-listed and regulated product to provide such access rather than relying on either flawed products or products listed and primarily regulated in other countries.

Bitcoin Futures ETFs

The Exchange and Sponsor applaud the Commission for allowing the recent launch of several ETFs registered under the Investment Company Act of 1940, as amended (the ''1940 Act''), that provide exposure to bitcoin through CME Bitcoin Futures (''Bitcoin Futures ETFs''). Allowing such products to list

[39] *See* Letter from Division of Corporation Finance, Office of Real Estate & Construction to Barry E. Silbert, Chief Executive Officer, Grayscale Bitcoin Trust (January 31, 2020) *https://www.sec.gov/Archives/edgar/data/1588489/000000000020000953/filename1.pdf.*

[40] *See* Form 10–K submitted by Tesla, Inc. for the fiscal year ended December 31, 2020 at 23: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

[41] *See* Form 10–Q submitted by MicroStrategy Incorporated for the quarterly period ended September 30, 2020 at 8: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1050446/000156459020047995/mstr-10q_20200930.htm.*

[42] *See* Form 10–Q submitted by Square, Inc. for the quarterly period ended September 30, 2020 at 51: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1512673/000151267320000012/sq-20200930.htm.*

[43] Amount obtained from *https://bitcointreasuries.net* as of December 3, 2021.

[44] The largest OTC Bitcoin Fund has grown its AUM from approximately $2.6 billion on February 26, 2020, the date on which the Commission issued the disapproval order for the United States Bitcoin and Treasury Investment Trust, to $37.1 billion on December 1, 2021, according to Grayscale's website. *See* Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR–NYSEArca–2019–39) (the ''Wilshire Phoenix Disapproval''). While the price of one bitcoin has increased approximately 690% in the intervening period, the total AUM has increased by approximately 1540%, indicating that the increase in AUM was created beyond just price appreciation in bitcoin. The premium and discount for OTC Bitcoin Funds is known to move rapidly. For example, over the period of 12/21/20 to 1/21/20, the premium for the largest OTC Bitcoin Fund went from 40.18% to 2.79%. While the price of bitcoin appreciated significantly during this period and NAV per share increased by 41.25%, the price per share increased by only 3.58%. This means that investors are buying shares of a fund that experiences significant volatility in its premium and discount outside of the fluctuations in price of the underlying asset. Even operating within the normal premium and discount range, it's possible for an investor to buy shares of an OTC Bitcoin Fund only to have those shares quickly lose 10% or more in dollar value excluding any movement of the price of bitcoin. That is to say—the price of bitcoin could have stayed exactly the same from market close on one day to market open the next, yet the value of the shares held by the investor decreased only because of the fluctuation of the premium. As more investment vehicles, including mutual funds and ETFs, seek to gain exposure to bitcoin, the easiest option for a buy and hold strategy for such vehicles is often an OTC Bitcoin Fund, meaning that even investors that do not directly buy OTC Bitcoin Funds can be disadvantaged by extreme premiums (or discounts) and premium volatility. Trading at a premium (or a discount) is not unique to OTC Bitcoin Funds and is not in itself problematic, but the Commission has recognized the risks that are posed by a persistent premium or discount and accordingly mandated website disclosure for ETFs under Rule 6c–11. That mandate was in the context of a persistent 2% premium or discount, whereas OTC Bitcoin Funds have had persistent premiums or discounts *at least 10 times* that percentage.

[45] Recently a number of operating companies engaged in unrelated businesses—such as Tesla (a car manufacturer) and MicroStrategy (an enterprise software company)—have announced investments as large as $5.3 billion in bitcoin. Without access to bitcoin exchange-traded products, retail investors seeking investment exposure to bitcoin may end up purchasing shares in these companies in order to gain the exposure to bitcoin that they seek. In fact, mainstream financial news networks have written a number of articles providing investors with guidance for obtaining bitcoin exposure through publicly traded companies (such as MicroStrategy, Tesla, and bitcoin mining companies, among others) instead of dealing with the complications associated with buying spot bitcoin in the absence of a bitcoin ETP. *See e.g.,* ''7 public companies with exposure to bitcoin'' (February 8, 2021) available at: *https://finance.yahoo.com/news/7-public-companies-with-exposure-to-bitcoin-154201525.html*; and ''Want to get in the crypto trade without holding bitcoin yourself? Here are some investing ideas'' (February 19, 2021) available at: *https://www.cnbc.com/2021/02/19/ways-to-invest-in-bitcoin-without-holding-the-cryptocurrency-yourself-.html.* Such operating companies, however, are imperfect bitcoin proxies and provide investors with partial bitcoin exposure paired with a host of additional risks associated with whichever operating company they decide to purchase. Additionally, the disclosures provided by such operating companies with respect to risks relating to their bitcoin holdings are generally substantially smaller than the registration statement of a bitcoin ETP, including the Registration Statement, typically amounting to a few sentences of narrative description and a handful of risk factors. In other words, investors seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin and are not fully benefitting from the risk disclosures and associated investor protections that come from the securities registration process.

[46] The Exchange notes that the Purpose Bitcoin ETF, a retail physical bitcoin ETP launched in Canada, reportedly reached $1.2 billion in assets under management as of October 15, 2021 (''AUM''), demonstrating the demand for a North American market listed bitcoin exchange-traded product (''ETP''). The Purpose Bitcoin ETF also offers a class of units that is U.S. dollar denominated, which could appeal to U.S. investors.

[47] The Exchange notes that securities regulators in a number of other countries have either approved or otherwise allowed the listing and trading of bitcoin ETPs. Specifically, these funds include the Purpose Bitcoin ETF, Bitcoin ETF, VanEck Vectors Bitcoin ETN, WisdomTree Bitcoin ETP, Bitcoin Tracker One, BTCetc bitcoin ETP, Amun Bitcoin ETP, Amun Bitcoin Suisse ETP, 21Shares Short Bitcoin ETP, CoinShares Physical Bitcoin ETP.

and trade is a productive first step in providing transparent, exchange-listed tools for expressing a view on bitcoin for U.S. investors and traders. However, as has been reported by numerous outlets, the structure of such products provides negative outcomes for buy and hold investors as compared to an ETP that would hold actual bitcoin instead of derivatives contracts (''Spot Bitcoin ETPs'').[48] Specifically, the cost of rolling CME Bitcoin Futures contracts (which has reached as high as 17% annually [49] excluding a fund's management fees and borrowing costs, if any) will cause the Bitcoin Futures ETFs to lag the performance of bitcoin itself and, at over a billion dollars in assets under management, would cost U.S. investors hundreds of millions of dollars on an annual basis. Such rolling costs would not be required for Spot Bitcoin ETPs that hold bitcoin. Further, Bitcoin Futures ETFs have grown so rapidly that they face potentially running into CME position limits, which would force a Bitcoin Futures ETF to invest in non-futures assets for bitcoin exposure and cause potential investor confusion and lack of certainty about what such Bitcoin Futures ETFs are actually holding to try to get exposure to bitcoin, not to mention completely changing the risk profile associated with such an ETF. While Bitcoin Futures ETFs represent a useful trading tool, they are clearly a sub-optimal structure for U.S. investors that are looking for long-term exposure to bitcoin that will, based on the calculations above, unnecessarily cost U.S. investors millions of dollars every year and the Exchange believes that any proposal to list and trade a Spot Bitcoin ETP should be reviewed by the Commission with this important investor protection context in mind.

As discussed further below, the Commission's primary test in determining whether to approve or disapprove a series of Commodity-Based Trust Shares, a product type which includes Spot Bitcoin ETPs, is whether the listing exchange has in place a comprehensive surveillance sharing agreement with a regulated market of significant size in the underlying asset. Previous disapproval orders have made clear that a regulated market of significant size is generally a futures and/or options market rather than the spot commodity markets, which are often unregulated.[50] Leaving aside the analysis of that standard for now,[51] Cboe believes it would be inconsistent to allow the listing and trading of Bitcoin Futures ETFs that hold primarily CME Bitcoin Futures while simultaneously disapproving Spot Bitcoin ETPs on the basis that the CME Bitcoin Futures market is not a regulated market of significant size. If the CME Bitcoin Futures market were not, in the opinion of the Commission, a regulated market of significant size, permitting Bitcoin Futures ETFs that trade on such market would seem to be inconsistent with the requirement under the Act of being designed to ''prevent fraudulent and manipulative acts and practices.'' [52] This is particularly true for the Trust, which will use the CF Bitcoin US Settlement Price (the ''Reference Rate'') as its price source to calculate its daily net asset value (''NAV''), with inputs from *the same* bitcoin trading platforms (''Constituent Platform'') and materially the same methodology as is used to price CME Bitcoin Futures.[53] Hence, to qualify as part of the bitcoin pricing input for the Trust, as well as CME Bitcoin Futures, a Constituent Platform must:

Have policies to ensure fair and transparent market conditions at all times and has processes in place to identify and impede illegal, unfair or manipulative trading practices, comply with applicable law and regulation, including, but not limited to capital markets regulations, money transmission regulations, client money custody regulations, know-your-client (KYC) regulations and anti-money laundering (AML) regulations.

Hence, not only are the Constituent Exchanges' pricing inputs and methodology (except for the calculation time) the same with respect to the Trust and CME Bitcoin Futures, but the Sponsor has represented that the Trust will qualify as an investment company under Accounting Standards Update 2013–08, which is the same accounting standards for Bitcoin Futures ETFs under the 1940 Act. As such, the Sponsor will ensure that the Trust's financial statements will be audited at least annually by an independent registered public accounting firm and as part of such audit, the auditor will be expected to perform procedures similar to those used for ETFs registered under the 1940 Act, including:

(i) Applying the accounting and reporting guidance for investment companies; and

(ii) testing and evaluating processes for determining bitcoin valuation and evaluate the reasonableness and consistency of assumptions, models, and calculations used, as well as the completeness, accuracy, and relevance of underlying data used.

In addition, the Sponsor will facilitate the Trust's compliance with the financial record keeping and reporting requirements under the Sarbanes-Oxley Act of 2002.

Additional 1940 Act Considerations [54]

In addition to the foregoing, the Sponsor has taken 1940 Act considerations into account in structuring the Trust's operations in seeking ''to protect investors and the public interest.''

First, the Trust will use U.S. Bank as the Custodian, which qualifies as a ''custodian'' under the 1940 Act and serves as the custodian for a significant number of ETFs registered under the 1940 Act. Similar to an engagement for an ETF registered under the 1940 Act, the Sponsor has represented that U.S. Bank is expected to agree to exercise reasonable care, prudence, and diligence such as a person having

[48] *See e.g.,* ''Bitcoin ETF's Success Could Come at Fundholders' Expense,'' Wall Street Journal (October 24, 2021), available at: *https://www.wsj.com/articles/bitcoin-etfs-success-could-come-at-fundholders-expense-11635080580*; ''Physical Bitcoin ETF Prospects Accelerate,'' *ETF.com* (October 25, 2021), available at: *https://www.etf.com/sections/blog/physical-bitcoin-etf-prospects-shine?nopaging=1&__cf_chl_jschl_tk__=pmd_JsK.fjXz9eAQW9zol0qpzhXDrrlpIVdoCloLXbLjl44-1635476946-0-gqNtZGzNApCjcnBszQql.*

[49] *Id.*

[50] *See* Winklevoss Order at 37593, specifically footnote 202, which includes the language from numerous approval orders for which the underlying futures markets formed the basis for approving series of ETPs that hold physical metals, including gold, silver, palladium, platinum, and precious metals more broadly; and 37600, specifically where the Commission provides that ''when the spot market is unregulated—the requirement of preventing fraudulent and manipulative acts may possibly be satisfied by showing that the ETP listing market has entered into a surveillance-sharing agreement with a regulated market of significant size in derivatives related to the underlying asset.'' As noted above, the Exchange believes that these citations are particularly helpful in making clear that the spot market for a spot commodity ETP need not be ''regulated'' in order for a spot commodity ETP to be approved by the Commission, and in fact that it's been the common historical practice of the Commission to rely on such derivatives markets as the regulated market of significant size because such spot commodities markets are largely unregulated.

[51] As further outlined below, both the Exchange and the Sponsor believe that the CME Bitcoin Futures market represents a regulated market of significant size and that this proposal and others like it should be approved on this basis.

[52] 15 U.S.C. 78f(b)(5). For additional detail, *see* Winklevoss Order at 37600.

[53] For a further description of the Reference Rate methodology and relevance to the requirements of Section 6(b)(5) of the Act, please see the comment letter from CF Benchmarks at *https://www.sec.gov/comments/sr-cboebzx-2021-024/srcboebzx2021024-8771282-237582.pdf.*

[54] We note that the largest OTC Bitcoin Funds holding spot Bitcoin today are not 1940 Act Funds and in any event do not provide the type of transparency and other protections described herein.

responsibility for the safekeeping of property of the Trust would exercise.[55]

Second, the Sponsor has represented that the Trust will be subject to the transparency requirements of Rule 6c–11 under the 1940 Act, which is commonly referred to as the ''ETF Rule.'' In particular, the Trust will disclose prominently on the Trust's website on a daily basis, which shall be publicly accessible and free of charge:

(i) The Trust's portfolio holdings (*i.e.,* bitcoin);

(ii) NAV per share, market price, and premium or discount, each as of the end of the prior business day;

(iii) a table showing the number of days the Trust's shares traded at a premium or discount during the most recently completed calendar year and calendar quarters since that year (or the life of the Trust, if shorter);

(iv) a line graph showing the Trust's premiums or discounts for the most recently completed calendar year and the most recently completely calendar quarters since that year (or the life of the Trust, if shorter);

(v) the Trust's median bid-ask spread, expressed as a percentage rounded to the nearest hundredth, in the manner computed under Rule 6c–11(c)(1)(v); and

(vi) if the Trust's premium or discount is greater than 2% for more than seven consecutive trading days, a statement that the Trust's premium or discount, as applicable, was greater than 2% and a discussion of the factors that are reasonably believed to have materially contributed to the premium or discount.

In addition, the Sponsor has represented: (i) That it will adopt procedures to ensure there are no transactions with affiliated persons that would be prohibited by the Section 17 of 1940 Act and the applicable rules and regulations thereunder; (ii) that the Trust will maintain a fidelity bond for the benefit of the Trust in the maximum amount required per Rule 17g–1 of the 1940 Act; and (iii) the Sponsor or applicable service provider of the Trust will maintain the books and records of the Trust in satisfaction of the requirements of Section 31 of the 1940 Act.

Part of the analysis of the regulated market of significant size test is whether an underlying market is sufficiently large to support an ETP is whether trading in the ETP is likely to be the predominant influence on prices in the market of significant size.[56] According to publicly available data, the largest Bitcoin Futures ETF represents 3,803 contracts [57] of the total 9,625 contracts of open interest in December CME Bitcoin Futures [58] as of 12/2/21 (roughly 40% of open interest). This seems to directly contradict the previously articulated standards by the Commission in the disapproval orders issued for Spot Bitcoin ETPs related to whether the trading in the ETP would be the predominant influence on prices in that market.[59] As further discussed below, research indicates that the CME Bitcoin Futures market is a regulated market of significant size with a predominant influence on prices in USD-based trading in bitcoin futures and spot markets globally.

Based on the foregoing, the Exchange and Sponsor believe that any objective review of the proposals to list Spot Bitcoin ETPs compared to the already listed and traded Bitcoin Futures ETFs would lead to the conclusion that Spot Bitcoin ETPs should be available to U.S. investors and, as such, this proposal and other comparable proposals to list and trade Spot Bitcoin ETPs should be approved by the Commission. Stated simply, U.S. investors stand to lose hundreds of millions of dollars from holding Bitcoin Futures ETFs, losses which could be prevented by the Commission approving Spot Bitcoin ETPs. This is particularly evident as demonstrated by the chart on the next page, which shows the dramatic underperformance of Bitcoin Futures as compared to the WisdomTree Bitcoin exchange traded product (''WisdomTree Europe Bitcoin Fund'') (BTCW) in Europe that holds spot bitcoin (not Bitcoin Futures) and is listed and traded on the Swiss Stock Exchange (''SIX''). BTCW also uses the Reference Rate (London Time) as its price source.

BILLING CODE 8011–01–P

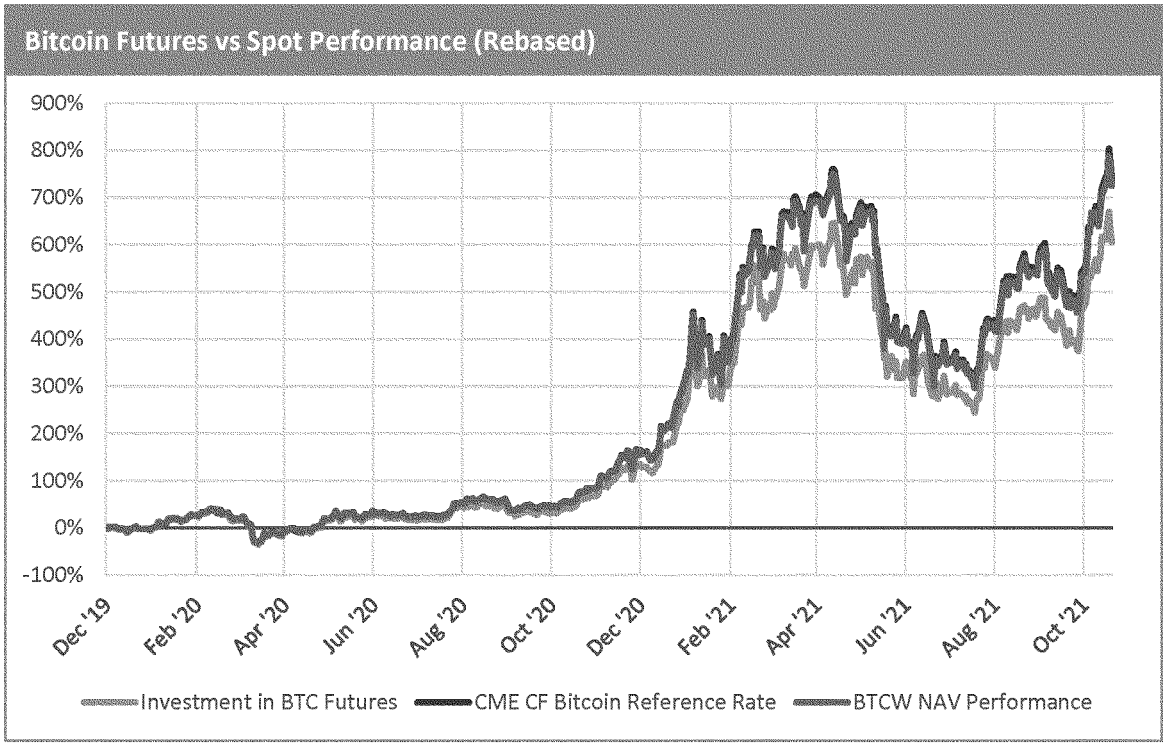
[55] To the extent the Commission may view differential treatment of Bitcoin Futures ETFs and Spot Bitcoin ETPs as warranted based on the Commission's concerns about the custody of physical Bitcoin that a Spot Bitcoin ETP would hold (compared to cash-settled futures contracts), the Sponsor believes this concern is mitigated by such custodial arrangements, whether directly through the Custodian or through a subcustodial relationship overseen by the Custodian.

[56] *See* Winklevoss Order at 37594.

[57] *See* Fund Holdings Information available at *https://www.proshares.com/funds/bito.html.*

[58] *See* Volume and Open Interest data available at *https://www.cmegroup.com/markets/cryptocurrencies/bitcoin/bitcoin.volume.html.*

[59] *See* Winklevoss Order at 37594–37595.



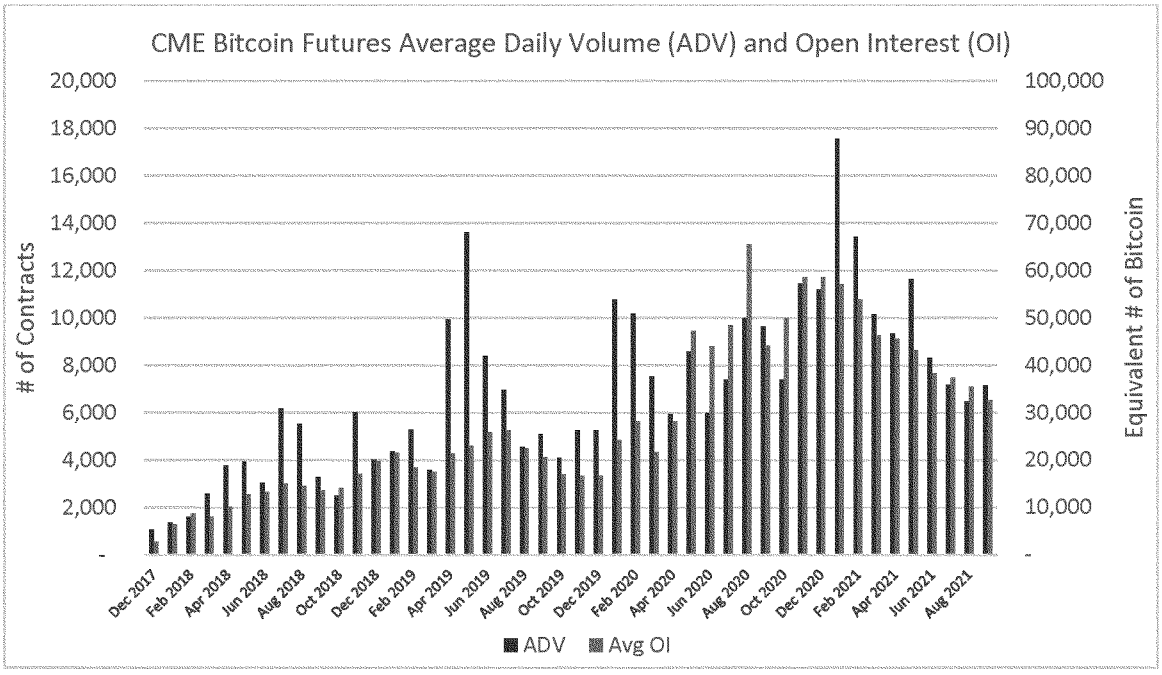
Source: WisdomTree

Additionally, any concerns related to preventing fraudulent and manipulative acts and practices related to Spot Bitcoin ETPs would apply equally to the spot markets underlying the futures contracts held by a Bitcoin Futures ETF. The Sponsor has structured the Trust's operations to operate as if certain 1940 Act provisions apply, providing transparency and investor protections such that a distinction between Bitcoin Futures ETFs and Spot Bitcoin ETPs is unwarranted. To be clear, both the Exchange and Sponsor believe that the CME Bitcoin Futures market is a regulated market of significant size and that such manipulation concerns are mitigated, as described extensively below. After allowing the listing and trading of Bitcoin Futures ETFs that hold primarily CME Bitcoin Futures, however, the only consistent outcome would be approving Spot Bitcoin ETPs on the basis that the CME Bitcoin Futures market is a regulated market of significant size. Including in the analysis the significant and preventable losses to U.S. investors that comes with Bitcoin Futures ETFs, disapproving Spot Bitcoin ETPs seems even more arbitrary and capricious. Given the current landscape, approving this proposal (and others like it) and allowing Spot Bitcoin ETPs to be listed and traded alongside Bitcoin Futures ETFs would establish a consistent regulatory approach, provide U.S. investors with choice in product structures for bitcoin exposure, and offer flexibility in the means of gaining exposure to bitcoin through transparent, regulated, U.S. exchange-listed vehicles.

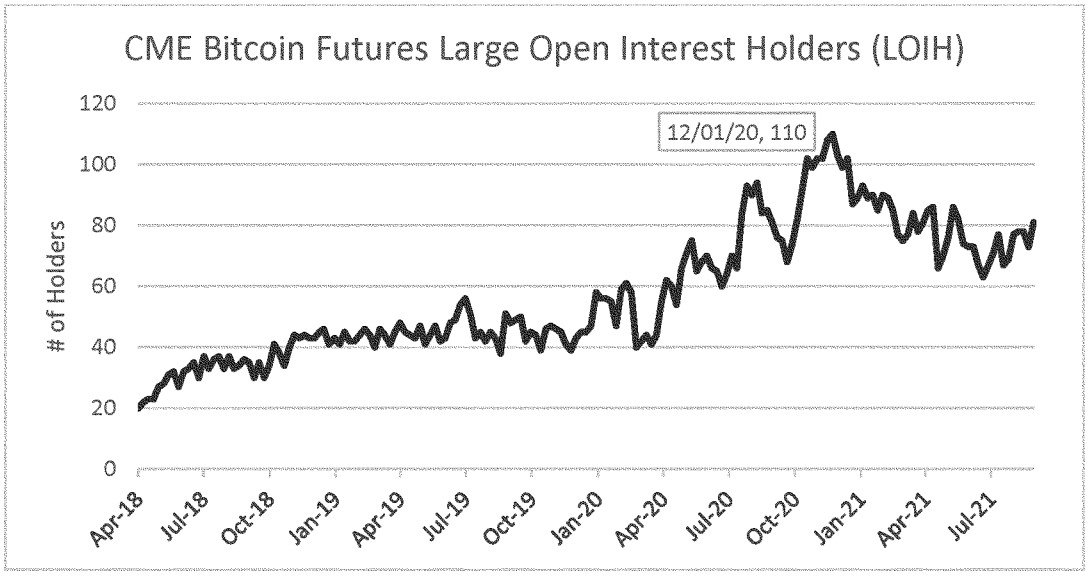
Bitcoin Futures

CME began offering trading in CME Bitcoin Futures in December 2017. Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate.[60] The contracts trade and settle like other cash-settled commodity futures contracts. Nearly every measurable metric related to CME Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year. For example, there was approximately $12 billion in trading in Bitcoin Futures in August 2021 compared to $3.9 billion, $4.5b billion, and $9b billion in total trading in August 2017, August 2018, and August 2019, respectively. Bitcoin Futures traded over $500m and represented $1.5 billion in open interest compared to $115 million in December 2019. This general upward trend in trading volume and open interest is captured in the following chart. (Source: CME, Bloomberg 8/31/21)

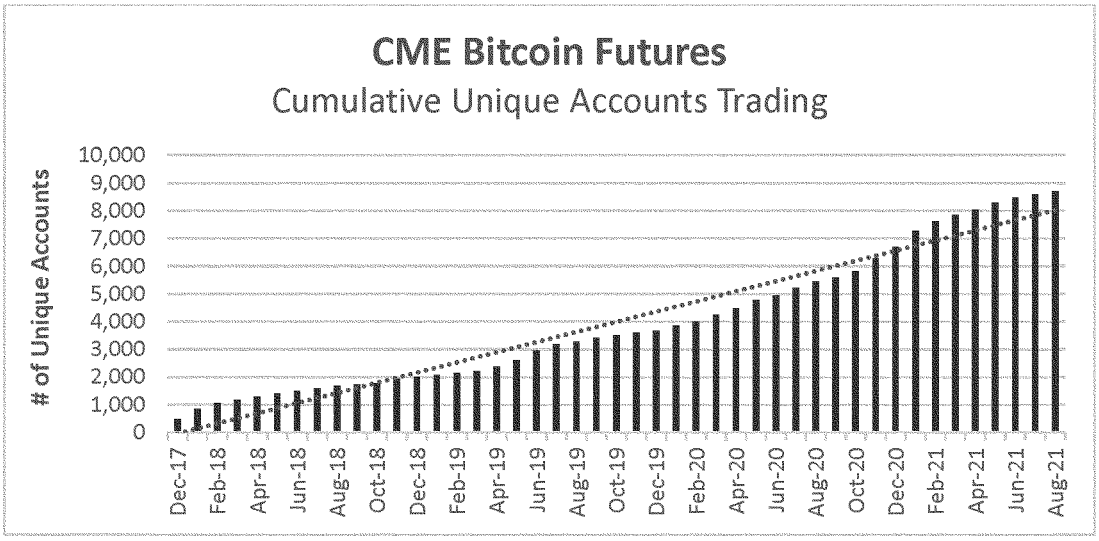
[60] According to CME, the CME CF Bitcoin Reference Rate aggregates the trade flow of major bitcoin spot exchanges during a specific calculation window into a once-a-day reference rate of the U.S. dollar price of bitcoin. Calculation rules are geared toward maximum transparency and real-time replicability in underlying spot markets, including Bitstamp, Coinbase, Gemini, itBit, and Kraken. For additional information, refer to *https://www.cmegroup.com/trading/cryptocurrency-indices/cf-bitcoin-reference-rate.html?redirect=/trading/cf-bitcoin-reference-rate.html.*



Similarly, the number of large open interest holders [61] has continued to increase even as the price of bitcoin has risen, as have the number of unique accounts trading Bitcoin Futures.



[61] A large open interest holder in Bitcoin Futures is an entity that holds at least 25 contracts, which is the equivalent of 125 bitcoin. At a price of approximately $46,996 per bitcoin on 8/31/21, more than 80 firms had outstanding positions of greater than $5.8 million in Bitcoin Futures.



BILLING CODE 8011–01–C

The Sponsor further believes that academic research corroborates this overall trend and supports the thesis that bitcoin futures, and more particularly CME Bitcoin Futures given the recent significant growth in that market, is a predominant influence in bitcoin price formation.[62]

Section 6(b)(5) and the Applicable Standards

The Commission has approved numerous series of Trust Issued Receipts,[63] including Commodity-Based Trust Shares,[64] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; [65] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that this filing sufficiently demonstrates that the CME Bitcoin Futures market represents a regulated market of significant size and that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently addressed to warrant approval. Specifically, the Exchange believes that the significant increase in trading volume in CME Bitcoin Futures and the growing body of evidence that the CME Bitcoin Futures market represents a regulated market of significant size as such a market has previously been described by the Commission, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares and the Reference Rate (as defined below) mitigate potential manipulation concerns to the point that it is consistent with the requirements of Section 6(b)(5) of the Act and therefore provides a basis for the Commission to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place [66] with a regulated

[62] *See* Amendment No. 1 to SR–CboeBZX–2021–051, filed December 9, 2021 (proposal to list and trade shares of the ARK 21Shares Bitcoin ETF) (the ''ARK 21Shares Proposal''); Securities Exchange Act Release No. 91994 (May 25, 2021), 86 FR 29321 (June 1, 2021) (proposal to list and trade shares of the Wise Origin Bitcoin Trust) (the ''Wise Origin Bitcoin Trust Filing''); Staff Memorandum re: Meeting with Representatives of Fidelity Digital Assets, et al. on September 8th, 2021 regarding the Wise Origin Bitcoin Trust Filing (the ''Wise Origin Bitcoin Trust Presentation''); and Hu, Y., Hou, Y. and Oxley, L. (2019). ''What role do futures markets play in Bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective'' (available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7481826/*). This academic research paper concludes that ''There exist no episodes where the Bitcoin spot markets dominates the price discovery processes with regard to Bitcoin futures. This points to a conclusion that the price formation originates solely in the Bitcoin futures market. We can, therefore, conclude that the Bitcoin futures markets dominate the dynamic price discovery process based upon time-varying information share measures. Overall, price discovery seems to occur in the Bitcoin futures markets rather than the underlying spot market based upon a time-varying perspective.''

[63] *See* Exchange Rule 14.11(f).

[64] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[65] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[66] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading

Continued

market of significant size.[67] Both the Exchange and CME are members of ISG.[68] The only remaining issue to be addressed is whether the CME Bitcoin Futures market constitutes a market of significant size, which both the Exchange and the Sponsor believe that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[69]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the Act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[70]

(a) Manipulation of the ETP

The significant growth in CME Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants over the last two years are reflective of that market's growing influence on the spot price.[71] Where CME Bitcoin Futures act as a predominant influence on the price in the spot market, such that a potential manipulator of the bitcoin spot market (beyond just the constituents of the Reference Rate[72]) would have to participate in the CME Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the CME Bitcoin Futures market because the Reference Rate is based on spot prices. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Reference Rate or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, of which the CME Bitcoin Futures market appears to be a predominant influence. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange and Sponsor also believe that trading in the Shares would not be the predominant force on prices in the CME Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the CME Bitcoin Futures market, the size of bitcoin's market cap, and the significant liquidity available in the spot market. Moreover, the Shares should trade close to NAV given that market participants would arbitrage any significant price deviations between the price of the Shares and prices in the spot market.[73] In addition to the CME Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[74] For a $10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of CME Bitcoin Futures acting as a predominant influence on price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or CME Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange and Sponsor believe that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10

activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in the Intermarket Surveillance Group (''ISG'') constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval.

[67] As described above, the precedent makes clear that the spot market for a series of Commodity-Based Trust Shares need not be ''regulated'' in order to be consistent with the requirement under the Act that the exchange proposal be designed to ''prevent fraudulent and manipulative acts and practices,'' and in fact that it's been the common historical practice of the Commission to rely on such derivatives markets as the regulated market of significant size because such spot commodities markets are largely unregulated. Specifically, the precedent includes language from numerous approval orders for which the underlying futures markets formed the basis for approving series of ETPs that hold commodities including physical metals, including gold, silver, palladium, platinum, and precious metals more broadly. The Commission also provides that ''when the spot market is unregulated—the requirement of preventing fraudulent and manipulative acts may possibly be satisfied by showing that the ETP listing market has entered into a surveillance-sharing agreement with a regulated market of significant size in derivatives related to the underlying asset.'' The precedent indicates that common historical practice of the Commission is to rely on such derivatives markets as the regulated market of significant size because such spot commodities markets are largely unregulated. *See* supra note 10.

[68] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[69] *See* Wilshire Phoenix Disapproval.

[70] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a ''cannot be manipulated'' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met. *Id.* at 37582.

[71] *See* ARK 21Shares Proposal and the Wise Origin Bitcoin Trust Presentation for additional analysis on this point.

[72] As further described below, the Reference Rate for the Fund is based on materially the same methodology (except calculation time) as the Administrator's BRR, which is the rate on which bitcoin futures contracts are cash-settled in U.S. dollars at the CME.

[73] See supra footnote 44 for an example of an ETP trading close to NAV, which is just one example of bitcoin ETPs trading in other global markets today that trade close to NAV.

[74] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[75] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

(ii) Designed To Protect Investors and the Public Interest

The Exchange believes that the proposal is designed to protect investors and the public interest. Over the past 1.5 years, U.S. investor exposure to bitcoin through OTC Bitcoin Funds has grown into the tens of billions of dollars and more than a billion dollars of exposure through Bitcoin Futures ETFs. With that growth, so too has grown the quantifiable investor protection issues to U.S. investors through roll costs for Bitcoin Futures ETFs and premium/discount volatility and management fees for OTC Bitcoin Funds. The Exchange believes that the concerns related to the prevention of fraudulent and manipulative acts and practices have been sufficiently addressed to be consistent with the Act. As such, the Exchange believes that approving this proposal (and comparable proposals) provides the Commission with the opportunity to allow U.S. investors with access to bitcoin in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) Reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks and costs associated with investing in Bitcoin Futures ETFs and operating companies that are imperfect proxies for bitcoin exposure; and (iv) providing an alternative for investors to self-custodying spot bitcoin.

WisdomTree Bitcoin Trust

Delaware Trust Company is the trustee (''Trustee''). U.S. Bancorp Fund Services, LLC dba U.S. Bank Global Fund Services will be the administrator (''Administrator'') and transfer agent (''Transfer Agent''), with U.S. Bank, N.A. serving as Custodian. Foreside Fund Services LLC will be the marketing agent (''Marketing Agent'') in connection with the creation and redemption of ''Baskets'' of Shares.

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in and ownership of the Trust. The Trust's assets will consist of bitcoin held by the Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will unexpectedly hold cash on a temporary basis.

According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,[76] nor a commodity pool for purposes of the Commodity Exchange Act (''CEA''), and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

When the Trust sells or redeems its Shares, it will do so in ''in-kind'' transactions in blocks of 50,000 Shares (a ''Creation Basket'') at the Trust's NAV. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust. Authorized participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Trust's assets, and market conditions at the time of a transaction. Shareholders who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the NAV of the Shares of the Trust.

Investment Objective

According to the Registration Statement and as further described below, the investment objective of the Trust is to gain exposure to the price of bitcoin, less expenses and liabilities of the Trust's operation. In seeking to achieve its investment objective, the Trust will hold bitcoin and value its Shares daily based on the value of bitcoin as reflected by the CF Bitcoin US Settlement Price (the ''Reference Rate''), which is an independently calculated value based on an aggregation of executed trade flow of major bitcoin spot exchanges. The Trust will process all creations and redemptions in-kind in transactions with authorized participants. The Trust is not actively managed.

The Reference Rate

As described in the Registration Statement, the Fund will use the Reference Rate to calculate the Trust's NAV. The Reference Rate is not affiliated with the Sponsor and was created and is administered by CF Benchmarks Ltd. (the ''Benchmark Administrator''), an independent entity, to facilitate financial products based on bitcoin. The Reference Rate is designed based on the IOSCO Principals for Financial Benchmarks and serves as a once-a-day benchmark rate of the U.S. dollar price of bitcoin (USD/BTC), calculated as of 4 p.m. Eastern time. The Reference Rate is based on materially the same methodology (except calculation time)[77] as the Benchmark Administrator's CME CF Bitcoin Reference Rate (''BRR''), which was first introduced on November 14, 2016 and is the rate on which bitcoin futures contracts are cash-settled in U.S. dollars at the CME. The Reference Rate aggregates the trade flow of several bitcoin exchanges, during an observation window between 3:00 p.m. and 4:00 p.m. Eastern time into the U.S. dollar price of one bitcoin at 4:00 p.m. Eastern time. The current constituent bitcoin exchanges of the Reference Rate are Bitstamp, Coinbase, Gemini, itBit and Kraken (the ''Constituent Bitcoin Exchanges'').

The Reference Rate is calculated based on the ''Relevant Transactions'' [78] of all of its Constituent Bitcoin Exchanges, as follows:

- All Relevant Transactions are added to a joint list, recording the time of execution, trade price and size for each transaction.
- The list is partitioned by timestamp into 12 equally-sized time intervals of 5 (five) minute length.
- For each partition separately, the volume-weighted median trade price is calculated from the trade prices and sizes of all Relevant Transactions, *i.e.,* across all Constituent Bitcoin Exchanges. A volume-weighted median differs from a standard median in that a weighting factor, in this case trade size, is factored into the calculation.

[75] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[76] 15 U.S.C. 80a–1. However, as previously stated, the Trust has undertaken to comply with certain provisions of the Investment Company Act of 1940.

[77] The Reference Rate is calculated as of 4 p.m. Eastern Time, whereas the BRR is calculated as of 4 p.m. London Time.

[78] A ''Relevant Transaction'' is any cryptocurrency versus U.S. dollar spot trade that occurs during the observation window between 3:00 p.m. and 4:00 p.m. Eastern time on a Constituent Bitcoin Exchange in the BTC/USD pair that is reported and disseminated by a Constituent Bitcoin Exchange through its publicly available API and observed by the Benchmark Administrator, CF Benchmarks Ltd.

• The Reference Rate is then determined by the arithmetic mean of the volume-weighted medians of all partitions.

By employing the foregoing steps, the Reference Rate thereby seeks to ensure that transactions in bitcoin conducted at outlying prices do not have an undue effect on the value of a specific partition, large trades or clusters of trades transacted over a short period of time will not have an undue influence on the index level, and the effect of large trades at prices that deviate from the prevailing price are mitigated from having an undue influence on the benchmark level. In addition, the Sponsor notes that an oversight function is implemented by the Benchmark Administrator in seeking to ensure that the Reference Rate is administered through codified policies for Reference Rate integrity.

Availability of Information

In addition to the price transparency of the Reference Rate, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an Intraday Indicative Value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

As noted above, the website for the Trust, which will be publicly accessible at no charge, will contain information consistent with the disclosure requirements of Rule 6c–11 under the 1940 Act. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the Reference Rate, including key elements of how the Reference Rate is calculated, will be publicly available at *https://www.cfbenchmarks.com.*

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the Reference Rate. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

Net Asset Value

NAV means the total assets of the Trust including, but not limited to, all bitcoin cash or other assets, less total liabilities of the Trust, each determined on the basis of generally accepted accounting principles. In determining the Trust's NAV, the administrator values the bitcoin held by the Trust based on the price set by the Reference Rate as of 4:00 p.m. Eastern Time. The administrator will determine the NAV of the Trust on each day that the Exchange is open for regular trading. The NAV for a normal trading day will be released after 4:00 p.m. Eastern Time. However, NAVs are not officially struck until later in the day (often by 5:30 p.m. Eastern Time and almost always by 8:00 p.m. Eastern Time). The pause between 4:00 p.m. Eastern Time and 5:30 p.m. Eastern Time (or later) provides an opportunity for the Trust, Benchmark Administrator or administrator to detect, flag, investigate, and correct unusual pricing should it occur. The Sponsor anticipates that the Reference Rate will be reflective of a reasonable valuation of the average spot price of bitcoin. However, in the event the Reference Rate was not available or determined by the Sponsor to not be reliable, the Sponsor would ''fair value'' the Trust's bitcoin holdings. The Sponsor does not anticipate that the need to ''fair value'' bitcoin will be a common occurrence. The Sponsor will publish the NAV and NAV per Share at *www.wisdomtree.com* as soon as practicable after their determination and availability.

Creation and Redemption of Shares

According to the Registration Statement, on any business day, an authorized participant may place an order to create one or more baskets. Purchase orders must be placed by 4:00 p.m. Eastern Time, or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received is considered the purchase order date. The total deposit of bitcoin required is an amount of bitcoin that is in the same proportion to the total assets of the Trust, net of accrued expenses and other liabilities, on the date the order to purchase is properly received, as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the date the order is received. Prior to market open each day, the Sponsor will publish the amount of bitcoin that will be required in exchange for each creation order. The Administrator determines the required deposit for a given day by dividing the number of bitcoin held by the Trust as of the opening of business on that business day, adjusted for the amount of bitcoin constituting estimated accrued but unpaid fees and expenses of the Trust as of the opening of business on that business day, by the quotient of the number of Shares outstanding at the opening of business divided by the aggregation of shares (*i.e.,* 50,000) associated with a creation unit. The procedures by which an authorized participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets.

Rule 14.11(e)(4)—Commodity-Based Trust Shares

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) Issued by a trust that holds a specified commodity [79] deposited with the trust; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) when

[79] For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act. As noted above, the CFTC has opined that bitcoin is a commodity as defined in Section 1a(9) of the Commodity Exchange Act. *See* Coinflip.

aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity.

Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books and records (see, *e.g.,* Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the bitcoin underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a) the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01 where the price is greater than $1.00 per share or $0.0001 where the price is less than $1.00 per share.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and CME Bitcoin Futures via ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[80]

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for the creation and redemption of Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours[81] when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[82] in general and Section

[80] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[81] Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[82] 15 U.S.C. 78f.

6(b)(5) of the Act [83] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts,[84] including Commodity-Based Trust Shares,[85] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices; [86] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest.

The Exchange believes that the proposal is, in particular, designed to protect investors and the public interest. Over the past 1.5 years, U.S. investor exposure to bitcoin through OTC Bitcoin Funds has grown into the tens of billions of dollars. With that growth, so too has grown the potential risk to U.S. investors. Premium and discount volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a bitcoin ETP. The Exchange understands the Commission's previous focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that such concerns have been sufficiently mitigated and that the growing and quantifiable investor protection concerns should be a central consideration as the Commission reviews this proposal. As such, the Exchange believes that this proposal acts to limit the risk to U.S. investors that are increasingly seeking exposure to bitcoin by providing direct, 1-for-1 exposure to bitcoin in a regulated, transparent, exchange-traded vehicle, specifically by: (i) Reducing premium volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure; and (iv) providing an alternative to custodying spot bitcoin.

The Exchange also believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently addressed to warrant approval. Specifically, the Exchange believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares and the Reference Rate mitigate potential manipulation concerns to the point that it is consistent with the requirements of Section 6(b)(5) of the Act and therefore provides a basis for the Commission to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place [87] with a regulated market of significant size. Both the Exchange and CME are members of ISG.[88] The only remaining issue to be addressed is whether the CME Bitcoin Futures market constitutes a market of significant size, which both the Exchange and the Sponsor believe that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[89]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[90]

(a) Manipulation of the ETP

The significant growth in CME Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix

[83] 15 U.S.C. 78f(b)(5).

[84] *See* Exchange Rule 14.11(f).

[85] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[86] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchanges because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[87] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval.

[88] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[89] *See* Wilshire Phoenix Disapproval.

[90] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a 'cannot be manipulated' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met.'' *Id.* at 37582.

Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures act as a predominant influence on the price in the spot market such that a potential manipulator of the bitcoin spot market (beyond just the constituents of the Reference Rate [91]) would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the Reference Rate is based on spot prices. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Reference Rate or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the CME Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange and Sponsor also believe that trading in the Shares would not be the predominant force on prices in the CME Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the CME Bitcoin Futures market, the size of bitcoin's market cap, and the significant liquidity available in the spot market. Moreover, the Shares should trade close to NAV given that market participants would arbitrage any significant price deviations between the price of the Shares and prices in the spot market. In addition to the CME Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[92] For a $10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of CME Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or CME Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[93] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the independently maintained and administered Reference Rate which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the manipulability of the Reference Rate significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares or, barring a forced redemption of the Trust or under other extraordinary circumstances, be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important.[94] When authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the Reference Rate because there is little financial incentive to do so.

Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the

[91] As noted above, the Constituent Bitcoin Exchanges are Bitstamp, Coinbase, Gemini, itBit and Kraken.

[92] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[93] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[94] While the Reference Rate will not be particularly important for the creation and redemption process, it will be used for calculating fees.

continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Availability of Information

The Exchange also believes that the proposal promotes market transparency in that a large amount of information is currently available about bitcoin and will be available regarding the Trust and the Shares. In addition to the price transparency of the Reference Rate, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information, including the information noted with respect to Rule 6c–11 under the 1940 Act. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the Reference Rate, including key elements of how the Reference Rate is calculated, will be publicly available at *https://www.cfbenchmarks.com.*

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the Reference Rate. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2022–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–006 and should be submitted on or before March 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[95]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–03019 Filed 2–11–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 11652]

Notice of Determinations; Additional Culturally Significant Object Being Imported for Exhibition—Determinations: ''The Language of Beauty in African Art'' Exhibition

SUMMARY: On December 16, 2021, notice was published on page 71313 of the **Federal Register** (volume 86, number 238) of determinations pertaining to certain objects to be included in an exhibition entitled ''The Language of Beauty in African Art.'' Notice is hereby given of the following determinations: I hereby determine that a certain additional object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the aforesaid exhibition at the Art Institute of Chicago, in Chicago, Illinois; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–03052 Filed 2–11–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0187]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: General Operating and Flight Rules FAR 91 and FAR 107

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 collection involves the submission of an application to obtain a Letter of Deviation Authority to permit flight instruction for compensation or hire aboard experimental category aircraft under 14 CFR 91.319. The information to be collected will be used to determine whether such flight instruction can be conducted safely.

DATES: Written comments should be submitted by April 15, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Dwayne C. Morris, 800 Independence Ave. SW, Washington, DC 20591.

By email: chris.morris@faa.gov.

FOR FURTHER INFORMATION CONTACT: Jabari Raphael by email at: *Jabari.Raphael@faa.gov;* phone: 202–267–1088.

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. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0005.

Title: General Operating and Flight Rules FAR 91 and FAR 107.

Form Numbers: N/A.

Type of Review: Renewal.

Background: In 2004, the FAA published a final rule requiring operators of experimental aircraft to apply for a Letter of Deviation Authority (LODA) to conduct operations for compensation or hire under 14 CFR 19.319. *See* 69 FR 44771 (July 27, 2004). When publishing the 2004 final rule, the FAA inadvertently omitted its submission to the OMB detailing the information collection burden under the Paperwork Reduction Act (PRA). *See* 69 FR at 44858 (explaining estimated PRA burden and OMB compliance requirements). As a result of this omission, the existing OMB collection does not account for the PRA burden of LODAs issued to operators under § 91.319.

In the 2004 final rule, the FAA also required that, beginning January 31, 2010, all experimental light sport aircraft (ELSA) operators would similarly need to apply for a LODA to conduct operations for compensation or hire. 69 FR at 44853 (explaining LODA requirements for ELSA operators). This additional LODA requirement—published in the 2004 final rule with an effective date in 2010—was also inadvertently not accounted for in the OMB's information collection. As a result of these inadvertent omissions to OMB, the FAA submits this Notice for Public Comment to ensure compliance with the PRA.

Importantly, the FAA has already requested and received public comment on the anticipated PRA burden for obtaining a LODA for experimental and ELSA aircraft operators. *See* 69 FR at 44858 (adjudicating comments from public regarding PRA burden). Thus, the FAA notes that it considered comments from interested members of the public when finalizing the LODA requirements under § 91.319. In other words, the FAA submits this Notice merely to ensure technical compliance with the OMB's

[95] 17 CFR 200.30–3(a)(12).

PRA requirements, as a matter of diligence in meeting these requirements and ensuring accuracy in recordkeeping procedures. Therefore, the FAA does not anticipate any substantive impact from submission of this Notice to ensure technical compliance.

Respondents: 355 certificated flight instructors. There are approximately 177 active LODA holders for operations under 14 CFR 91.319, and the FAA anticipates approximately 170 new applications per year.

Frequency: As needed. The duration of a LODA issued under § 91.319 is four years.

Estimated Average Burden per Response: 15 hours.

Estimated Total Annual Burden: 2,250 hours per year.

Issued in Washington, DC, on February 8, 2022.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2022–03017 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0037]

Inventory of U.S.-Flag Launch Barges; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) is performing its annual update of registered U.S.-flag launch barges. Any additions or changes to the current *Register of U.S.-Flag Launch Barges* published below in the **SUPPLEMENTARY INFORMATION** section should be submitted as comments to MARAD. MARAD's Launch Barge Program information page is located at *https://www.maritime.dot.gov/ports/domestic-shipping/launch-barge-program.*

DATES: Submit comments on or before March 16, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0037 by any of the following methods:

- *Website/Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search ''MARAD–2022–0037'' and follow the instructions for submitting comments on the electronic docket site.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: All submissions must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* and search using ''MARAD–2022–0037.''

FOR FURTHER INFORMATION CONTACT: Jennifer Meurer, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Email: *Jennifer.Meurer@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 46 CFR part 389.3, in order to provide timely notification to interested parties and to maximize the use of coastwise-qualified vessels, MARAD is required to publish an annual notice requesting that existing or prospective owners or operators of U.S. registered launch barges notify the Agency of: (1) Their interest in participating in the transportation and, if needed, the launching or installation of offshore platform jackets; (2) the contact information for their company; and, (3) the specifications of any currently owned or operated coastwise-qualified launch barges or plans to construct such a vessel. Respondents should note whether the vessel has been issued a certificate of documentation with a coastwise endorsement.

The following is MARAD's current register of U.S.-flag launch barges:

Vessel name	Owner	Built	Length (ft.)	Beam (ft.)	DWT (L.T.)	Approx. launch capacity (L.T.)	Coastwise-qualified
455 4	Crowley Marine Services	2009	400	105	19,226	18,766	X
455 5	Crowley Marine Services	2009	400	105	19,226	18,766	X
455 6	Crowley Marine Services	2009	400	105	19,226	18,766	X
455 7	Crowley Marine Services	2009	400	105	19,226	18,766	X
455 8	Crowley Marine Services	2010	400	105	19,226	18,766	X
455 9	Crowley Marine Services	2010	400	105	19,226	18,766	X
Barge 400L	Crowley Marine Services	1997	400	100	19,646	19,146	X
Barge 410	Crowley Marine Services	1974	400	99.5	12,035	11,535	X
Barge 455–3	Crowley Marine Services	2008	400	105	19,226	18,766	X
Barge 500–1	Crowley Marine Services	1982	400	105	16,397	15,897	X
Julie B	Crowley Marine Services	2008	400	130	23,600	23,100	X
Marty J	Crowley Marine Services	2008	400	105	19,226	18,766	X
MWB 403	HMC Leasing, Inc	1979	400	105	16,322	6,800	X
INTERMAC 600	J. Ray McDermott, Inc	1973	500	120	32,290	15,600	
McDermott Tidelands 020	J. Ray McDermott, Inc	1980	240	72	5,186	5,000	X
McDermott Tidelands 021	J. Ray McDermott, Inc	1980	240	72	4,700	2,200	X
McDermott Tidelands 021	J. Ray McDermott, Inc	1981	240	72	5,186	5,000	X
McDermott Tidelands No. 012	J. Ray McDermott, Inc	1973	240	72.2	4,217	4,000	X
McDermott Tidelands No. 014	J. Ray McDermott, Inc	1973	240	72.2	4,217	4,000	X
MARMAC 11	McDonough Marine Service	1994	250	72	4,743	4,200	X
MARMAC 12	McDonough Marine Service	1994	250	72	4,743	4,200	X
MARMAC 15	McDonough Marine Service	1995	250	72	4,743	4,200	X
MARMAC 16	McDonough Marine Service	1995	250	72	4,743	4,200	X
MARMAC 17	McDonough Marine Service	1997	250	72	4,743	4,200	X
MARMAC 18	McDonough Marine Service	1998	250	72	4,743	4,200	X
MARMAC 19	McDonough Marine Service	1999	250	72	4,743	4,200	X
MARMAC 20	McDonough Marine Service	1999	250	72	4,743	4,200	X
MARMAC 21	McDonough Marine Service	2002	260	72	5,163	4,500	X
MARMAC 22	McDonough Marine Service	2003	260	72	5,082	4,500	X
MARMAC 23	McDonough Marine Service	2009	260	72	5,082	4,500	X

Vessel name	Owner	Built	Length (ft.)	Beam (ft.)	DWT (L.T.)	Approx. launch capacity (L.T.)	Coastwise-qualified
MARMAC 24	McDonough Marine Service	2010	260	72	5,082	4,500	X
MARMAC 25	McDonough Marine Service	2010	260	72	5,082	4,500	X
MARMAC 300	McDonough Marine Service	1998	300	100	10,105	9,500	X
MARMAC 301	McDonough Marine Service	1996	300	100	9,553	9,000	X
MARMAC 3018	McDonough Marine Service	1996	318	95′–9″	10,046	9,500	
MARMAC 400	McDonough Marine Service	2001	400	99′–9″	11,272	10,500	X
MARMAC 9	McDonough Marine Service	1993	250	72	4,743	4,200	X
COLUMBIA NORFOLK	Moran Towing	1982	329′3½″	78	8,036	8,000	X
FAITHFUL SERVANT	Puglia Engineering, Inc	1979	492	131	23,174	23,000	
ATLANTA BRIDGE	Trailer Bridge, Inc	1998	402	100	6,017	6,017	X
BROOKLYN BRIDGE	Trailer Bridge, Inc	1998	402	100	6,017	6,017	X
CHARLOTTE BRIDGE	Trailer Bridge, Inc	1998	402	100	6,017	6,017	X
CHICAGO BRIDGE	Trailer Bridge, Inc	1998	402	100	6,017	6,017	X
MEMPHIS BRIDGE	Trailer Bridge, Inc	1998	402	100	6,017	6,017	X

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 46 U.S.C. 55108, 46 CFR 389)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–03106 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before March 16, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 4, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
11993–M	Key Safety Systems, Inc	173.301(a)(1), 173.302(a)(1)	To modify the special permit to authorize a different pressure test and alternative safety control measures.
12135–M	Daicel Safety Systems Inc	173.301(a)(1), 173.302a(a), 178.65(c)(3).	To modify the special permit to remove the flattening test requirement and authorize alternative markings.
14799–M	Joyson Safety Systems Sachsen Gmbh.	173.301(a), 173.302(a)(1)	To modify the special permit to authorize a different pressure test and alternative safety control measures.
14833–M	Joyson Safety Systems Aschaffenburg Gmbh.	178.65(f)(2), 173.301(a), 173.302(a)(2).	To modify the special permit to authorize a different pressure test and alternative safety control measures.
15372–M	Equipo Automotriz Americana, S.a. De C.v.	173.301(a)(1), 173.302(a)	To modify the special permit to authorize a different pressure test and alternative safety control measures.
15713–M	Bulk Tank International, S. De R.I. De C.v.	178.345–2, 178.346–2, 178.347–2, 178.348–2.	To modify the special permit to authorize the use of the 2017 Edition of the ASME Code.
16318–M	Technical Chemical Company	173.304(d), 173.167(a)	To modify the special permit to authorize an additional hazardous material.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20646–M	Omni Tanker Pty. Ltd	107.503(b), 107.503(c), 172.102(c)(3), 172.102(c)(7)(ii), 178.274(b), 178.274(c), 178.274(d).	To modify the special permit to authorize additional hazardous materials and rail freight.
21231–N	Patrick J. Kelly Drums, Inc	173.28(b)	To authorize the recondition of UN specification metal drums that have minimum steel thicknesses below those now authorized in 49 CFR § 173.28(b)(4).
21257–N	The Procter & Gamble Company.	173.306(a)(5)(v), 173.306(a)(5)(vi).	To authorize the transportation in commerce of non-flammable, non-toxic compressed gases (Division 2.2) in DOT Specification 2S and non-DOT specification plastic aerosols not exceeding a capacity of one liter, designed and tested through an in-line pressure testing approach under a quality management system.
21274–N	Cf Industries Sales, LLC	172.401, 172.502	To authorize the transportation in commerce of nitric acid mixtures with nitric acid concentrations of equal to or greater than 64.5% and less than 65.0% as having a Division 5.1 subsidiary hazard.
21289–N	Chemtrade Refinery Services Inc.	173.35(e)	To authorize the transportation in commerce of IBCs containing the residue of certain hazardous materials where the closure nearest to the hazardous materials is open.
21293–N	Harnyss, LLC	173.311	To authorize the manufacture, mark, sale and use of a specially designed storage device consisting of a non-DOT specification cylinder similar to a DOT 3AL cylinder for use in transporting hydrogen absorbed in metal hydride, Division 2.1.
21296–N	Lockheed Martin Corporation	173.185(a)(1)	To authorize the transportation in commerce of low production lithium batteries in alternative packaging via motor vehicle.
21303–N	Korean Air Lines Co., Ltd	172.101(j), 173.27(b)(2), 173.27(b)(3), 175.30(a).	Authorizes the transportation in commerce of certain explosives that are forbidden for transportation by aircraft.
21305–N	Cyanco International, LLC	180.605(e)	To authorize the use of ultrasonic thickness testing as an alternative to internal inspection for U.N. portable tanks containing sodium cyanide.
Special Permits Data—Denied			
Special Permits Data—Withdrawn			
21309–N	Construction Helicopters, Inc	172.101(j), 173.27(b)(2)	To authorize the transportation in commerce of Division 1.1, 1.2, 1.3 and 1.4 explosives that are not permitted for transportation aboard cargo-only aircraft or are in quantities greater than those prescribed for transportation aboard cargo-only aircraft.
21319–N	Kavok Eir, Tov	172.101(j), 172.204(c)(3), 173.27, 175.30(a)(1).	To authorize the transportation in commerce of forbidden explosives by cargo aircraft.

[FR Doc. 2022–03087 Filed 2–11–22; 8:45 am]
BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before March 16, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 04, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21323–N	Canadian Pacific Railway Company.	172.203(a), 173.24, 173.26	To authorize the use of electronic shipping paper information and train consist information when hazardous materials are transported by rail. (mode 2).
21324–N	Absolute Accuracy, LLC	173.304(d), 173.306(a)(3)	To authorize the manufacture, mark, sale and use of a non-refillable, non-DOT specification inside metal container similar to a DOT specification 2Q. (modes 1, 2, 3, 4).
21325–N	Western International Gas & Cylinders, Inc.	171.12(a)(4)	To authorize the requalification of acetylene cylinders authorized by Transport Canada but are not authorized for transport of hazardous materials in the United States. (mode 1).
21326–N	Channel Medsystems, Inc	173.304(f)(3)	To authorize the transportation in commerce of nitrous oxide, via air, within an outer packaging that has not passed the Thermal Resistance Test. (mode 4).
21328–N	Dragonfly Energy Corp	173.6(a)(1)(ii), 173.6(d)	To authorize the transportation in commerce of lithium batteries exceeding 66 pounds as materials of trade. (mode 1).
21330–N	Polysource, Inc	176.907(a), 176.907(b), 176.907(c)(1).	To authorize the transportation in commerce of polymeric beads in alternative packaging. (mode 3).
21331–N	Jaco, Inc	172.200, 172.700(a)	To authorize the transportation in commerce of lithium ion batteries and lithium ion batteries contained in equipment, shipped by customers back to the manufacturer, without requiring shipping papers, emergency response information or hazmat training. (modes 1, 2, 3).
21332–N	Advanced Material Systems Corporation.	173.302(f)(1)	To authorize the transportation in commerce of ISO 11119–2 cylinders containing oxygen via cargo-only aircraft. (mode 4).
21333–N	Cummins Inc	172.101(j), 173.185(b)(1)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft. (mode 4).
21334–N	PacTec, Inc	173.12(b)(2)(i)	To authorize the manufacture, mark, sale, and use of certain UN13H4 woven plastic, coated, and with liner Flexible Intermediate Bulk Containers (IBC) for use as the outer packaging in a combination packaging for liquids or solids lab packs in accordance with 49 CFR 173.12(b)(2)(i). (modes 1, 2, 3).
21335–N	The Island Packers Corporation.		To authorize the transportation in commerce of certain hazardous materials aboard passenger vessels.
21336–N	Kronebusch Industries LLC	178.33a–1	To authorize the manufacture, mark, sale, and use of receptacles meeting all the requirements for the DOT 2Q specification, except that the capacity and diameter exceed that which is authorized for the specification. (modes 1, 2, 3, 4, 5).

[FR Doc. 2022–03085 Filed 2–11–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before March 1, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 07, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
11859–M	Cobham Mission Systems Orchard Park Inc.	173.301(f), 178.65, 173.302(a)(1).	To modify the special permit to authorize a new part number. (modes 1, 2, 4).
13220–M	Entegris, Inc	173.302, 173.302c, 180.205(d).	To modify the special permit to authorize disposal of cylinders. (modes 1, 3).
16165–M	HRD Aero Systems, Inc	173.302(a), 173.56(b)	To modify the special permit to increase the maximum aluminum content to 6.75%. (modes 1, 2, 3, 4, 5).
20357–M	Jingmen Hongtu Special Aircraft Manufacturing Co., Ltd.	178.274(b), 178.276(b)(1)	To modify the special permit to authorize ammonia and different packaging. (modes 1, 2, 3).
21125–M	CTS Cylinder Sales LLC	180.209(a), 180.209(b)(1), 180.209(b).	To modify the special permit to authorize FBH flaw size for cylinders over 6'' in diameter to be larger and commensurate with the size of the cylinder. (modes 1, 2).

[FR Doc. 2022–03086 Filed 2–11–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Recruitment Notice for the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: Notice of Open Season for Recruitment of IRS Taxpayer Advocacy Panel (TAP) Members.

DATES: February 14, 2022, through April 8, 2022.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at 214–413–6523 (not a toll-free call).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of the Treasury and the Internal Revenue Service (IRS) are inviting individuals to help improve the nation's tax agency by applying to be members of the Taxpayer Advocacy Panel (TAP). The mission of the TAP is to listen to taxpayers, identify issues that affect taxpayers, and make suggestions for improving IRS service and customer satisfaction. The TAP serves as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue, and the National Taxpayer Advocate. TAP members will participate in subcommittees that channel their feedback to the IRS through the Panel's parent committee.

The IRS is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 200 to 300 hours a year, and a desire to help improve IRS customer service. As a federal advisory committee, TAP is required to have a fairly balanced membership in terms of the points of view represented. Thus, TAP membership represents a cross-section of the taxpaying public with at least one member from each state, the District of Columbia and Puerto Rico, in addition to one member representing international taxpayers. For application purposes, ''international taxpayers'' are defined broadly to include U.S. citizens working, living, or doing business abroad or in a U.S. territory. Potential candidates must be U.S. citizens, not a current employee of any Bureau of the Treasury Department or have worked for any Bureau of the Treasury Department within the three years of December 1 of the current year and must pass a federal tax compliance check and a Federal Bureau of Investigation criminal background investigation. Applicants who practice before the IRS must be in good standing with the IRS (meaning not currently under suspension or disbarment). Federally registered lobbyists cannot be members of the TAP. The IRS is seeking candidates in the following locations: Alabama, Arkansas, Arizona, California, Colorado, Florida, Iowa, Idaho, Illinois, Indiana, Kentucky, Massachusetts, Maine, Missouri, Mississippi, Montana, North Carolina, North Dakota, New Hampshire, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Wisconsin, and West Virginia. TAP members are a diverse group of citizens who represent the interests of taxpayers, from their respective geographic locations as well as taxpayers overall. Members provide feedback from a taxpayer's perspective on ways to improve IRS customer service and administration of the federal tax system, by identifying grassroots taxpayer issues. Members should have good communication skills and be able to speak to taxpayers about TAP and its activities, while clearly distinguishing between TAP positions and their personal viewpoints.

Interested applicants should visit the TAP website at *www.improveirs.org* for more information about TAP. Applications may be submitted online at *www.usajobs.gov.* For questions about TAP membership, call the TAP toll-free number, 1–888–912–1227 and select prompt 5. Callers who are outside of the U.S. should call 214–413–6523 (not a toll-free call).

The opening date for submitting applications is February 14, 2022, and the deadline for submitting applications is April 8, 2022. Interviews will be held. The Department of the Treasury will review the recommended candidates and make final selections. New TAP members will serve a three-year term starting in December 2022. (Note: Highly ranked applicants not selected as members may be placed on a roster of alternates who will be eligible to fill future vacancies that may occur on the Panel.)

Questions regarding the selection of TAP members may be directed to Lisa Billups, Taxpayer Advocacy Panel, Internal Revenue Service, 1111 Constitution Avenue NW, TA:TAP Room 1509, Washington, DC 20224, or 214–413–6523 (not a toll-free call).

Dated: February 8, 2022.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2022–03024 Filed 2–11–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0682]

Agency Information Collection Activity: Advertising, Sales, Enrollment Materials, and Candidate Handbooks

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 15, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0682'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0682'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 CFR 21.4252(h).

Title: Advertising, Sales, Enrollment Materials, and Candidate Handbooks.

OMB Control Number: 2900–0682.

Type of Review: Revision of a currently approved collection.

Abstract: This notice is replacing the previous 60-Day Notice, Vol. 86 No. 239 that was published on January 16, 2021. A Correction Notice was published in Vol. 87 No. 1 on January 3, 2022. The statute prohibits approval of the enrollment of a Veteran in a course if the educational institution uses advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading either by actual statement, omission, or intimation. The advertising, sales and enrollment materials are reviewed to determine if the institution is in compliance with guidelines for approval. VA received two public comments which questions the 15-minute length of burden time needed to gather the information required for VA review upon compliance for this ICR. After careful assessment, VA agrees with the comments, and have therefore adjusted the time burden from 15 minutes to 60 minutes accordingly, and as result have updated the Supporting Statement to reflect the change.

Affected Public: Individuals and Households.

Estimated Annual Burden: 5,525 hours.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 5,525.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–03032 Filed 2–11–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Change of Publication Manner for Notice of Invention Licenses

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Currently, the Department of Veterans Affairs (VA) publishes notices of prospective exclusive, co-exclusive or partially exclusive domestic or foreign licenses of Government-owned inventions at the Federal Laboratory Consortium for Technology Transfer (FLC) business website (*https://federallabs.org/licenses-list/all*). VA must provide notice of its intent to license VA inventive subject matter in order to provide the public an opportunity to file written objections to the proposed license within at least a 15-day notice period. VA is announcing that, 15 days from the publication of this Notice, it will begin using the TechLink website (*https://techlinkcenter.org*) as its primary publication forum for providing notice. TechLink is a non-profit center of Montana State University. The TechLink website will serve as VA's primary forum for publishing notices of prospective exclusive, co-exclusive or partially exclusive domestic or foreign licenses licensing opportunities. However, if VA is unable to use the TechLink website due to technical problems or other unforeseen circumstances, VA will publish such notices at the FLC business website.

FOR FURTHER INFORMATION CONTACT: Dr. John J. Kaplan, Ph.D., J.D., Director, VA Technology Transfer Program (14RDTT), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; at *John.Kaplan@va.gov* or 202–632–7271. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to 37 CFR 404.7(a)(1)(i), an exclusive, co-exclusive or partially exclusive domestic license, and, pursuant to 37 CFR 404.7(b)(1)(i), an exclusive, co-exclusive or partially exclusive foreign license, may be granted on Government-owned inventions only if notice of a prospective license has been published in the **Federal Register** or other appropriate manner, providing opportunity for filing written objections within at least a 15-day period. VA provides notice that, 15 days from the date of publication of this Notice, it will begin publishing notices of prospective exclusive, co-exclusive or partially exclusive domestic or foreign licenses at the TechLink website, providing opportunity for filing written objections within a 15-day period. If VA is unable to use the TechLink website due to technical problems or other unforeseen circumstances, VA will publish such notices at the FLC business website.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this

document on February 8, 2022 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.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2022–03124 Filed 2–11–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Department of Veterans Affairs' Tribal Representation Expansion Project

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Tribal consultation.

SUMMARY: The Department of Veterans Affairs (VA) is seeking Tribal consultation on ''The Tribal Representation Expansion Project (T. REP)'', a project through which VA strives to ensure that Native American Veterans have access to responsible, qualified representation in the preparation, presentation, and prosecution of their benefit claims before VA. VA is seeking comments on whether Tribal communities currently have access to representation for VA benefit claims and, for those Tribes that are being underserved in terms of representation, whether the Tribal governments may be interested in collaborating with VA to designate an individual within the community as authorized to prepare, present, and prosecute VA benefit claims. In addition, VA is seeking comments and recommendations on any issues, concerns, or processes the Tribes believe should be addressed in T. REP to better ensure that the project is successful in helping to expand access to representation for Native American Veterans on their benefit claims before VA.

DATES: VA will hold the virtual tribal consultation session on March 23, 2022, from 3:00–5:00 p.m. (Eastern Time). Written comments may also be submitted to VA on or before March 30, 2022.

ADDRESSES: Participants can access the virtual consultation session by registering through the following link: *https://veteransaffairs.webex.com/veteransaffairs/onstage/g.php?MTID=eaa07b769b5f8a27cfe390e0c732ee1eb*; for audio by phone, please dial 1–404–397–1596, access code 2760 198 8717. Participants will interact by submitting written comments and/or questions using the chat function during the presentation. Written comments may also be submitted by any of the following methods:

- By email to *tribalgovernmentconsultation@va.gov.*
- By facsimile to 202–273–5716.
- By mail to U.S. Department of Veterans Affairs, Suite 915B, 810 Vermont Avenue NW, Washington, DC 20420.

Comments should indicate that the submission is in response to ''The Tribal Representation Expansion Project.''

FOR FURTHER INFORMATION CONTACT: Clay Ward, VA Office of Tribal Government Relations at (202) 461–7445 (this is not a toll-free number), or by email at *Tribalgovernmentconsultation@va.gov,* or by mail at Suite 915B, 810 Vermont Avenue NW, Washington, DC 20420.

SUPPLEMENTARY INFORMATION: Through T. REP, VA strives to ensure that Native American Veterans and their families have access to responsible, qualified representation in the preparation, presentation, and prosecution of their benefit claims before VA. Through T.REP, VA aims to focus on the Tribal communities that are being underserved in terms of representation. To help improve access to claims representation in those communities, VA would like to collaborate with Tribal governments to designate an individual within the community as authorized to prepare, present, and prosecute VA benefit claims.

VA has long since recognized the unique circumstances of Tribes and that cultural, geographical, or language barriers may exist that prevent or deter Native American Veterans from seeking out representation on their benefit claims before VA. In 2017, VA took affirmative steps to improve access to representation on Tribal land by revising its regulations to, among other things, permit veterans' service offices affiliated with Tribal governments to be recognized by VA as Tribal organizations in a manner similar to State organizations (*see* 82 FR 6265 (Jan. 19, 2017)). VA, however, recognizes that there is still more that VA can do to advance equity in the access to representation for Native American Veterans on their VA benefit claims. Accordingly, to further facilitate access to culturally competent representation for Native American Veterans, and to honor the unique nature of the Federal government's Nation-to-Nation relationship with the Tribes, VA would like to collaborate with Tribal governments to expand opportunities for claims representation where needed.

Through consultation, VA seeks to learn which Tribal communities have access to representation for VA benefit claims. VA is interested in learning which Tribal communities have access to representation that is provided by representatives of VA-recognized organizations. VA is also interested in learning which Tribal communities have access to representation by attorneys and agents. Moreover, VA also seeks to learn whether such representation is viewed in the Tribal community as culturally competent representation.

In addition, from the Tribal communities that self-identify as being underserved in terms of representation, VA seeks comments on whether their Tribal governments may be interested in collaborating with VA to provide an option for representation. Specifically, VA is interested in learning if there are Tribes that may be interested in identifying an individual who is affiliated with their government, is of good character and reputation, and, who, after proper training on VA benefits, would be fit to be authorized by the VA General Counsel to represent on VA benefit claims. The General Counsel then plans to use his discretionary authority, pursuant to 38 CFR 14.630, to specially authorize such individuals to prepare, present, and prosecute VA benefit claims before VA. In addition, to help ensure the fitness of these specially authorized individuals, VA is exploring the possibility of coordinating with VA-recognized organizations that have established veterans benefits training programs and that may be willing to make their training available to such individuals.

In addition, VA is seeking comments and recommendations from Tribal leaders and representatives of Tribal communities on any issues, concerns, or processes that should be addressed in T. REP to ensure that the project is successful in expanding access to representation for Native American Veterans on their VA benefit claims.

Accordingly, through this Tribal consultation, the Secretary seeks information on the questions listed below. Comments do not need to address every question and should focus on those that are relevant to the commenter's Tribal community. To the extent possible, please clearly indicate which questions you are addressing in your response and include any rationale or information that may be helpful to VA.

1. Are Native American Veterans in your community receiving any

assistance in pursuing their VA benefit claims? Are they being represented before VA on their VA benefit claims? Who is providing those services? For example, those claims services may be provided by: (a) A person employed by the Tribal government; (b) a member of your Tribe or Tribal community; (c) a VA-recognized organization or a representative of a VA-recognized organization; or (d) an agent or attorney. Please provide details as to the extent of the assistance provided and whom we may credit if your Tribal community currently has access to benefit claims assistance and/or representation before VA.

2. If Veterans within your Tribal community have access to representation for their VA benefit claims, do you consider the option(s) for representation to be culturally competent representation? Please explain.

3. If Veterans and their families within your Tribal community are not being adequately represented on their VA benefit claims, is there someone employed by, or affiliated, with your Tribal government that is currently, or could be, positioned to serve Veterans? For example, such individual may currently be serving Veterans and their families as a Tribal Veterans Service Officer (TVSO) or as a Tribal Veterans Representative (TVR).

4. Are there barriers to Veterans and their family members within your Tribal community in accessing representation on their VA claims? For example, barriers may include: (a) Location or environmental obstacles; (b) language difficulties; (c) cultural differences; (d) distrust of the Federal or State government; (e) difficulties in finding training; (f) difficulties in securing office equipment and internet services; or (g) other circumstances.

5. Do you believe that your Tribal government may want to collaborate with VA to identify someone affiliated with your government to be authorized to represent Veterans and their families on benefit claims before VA?

6. Are you interested in being contacted by VA's Office of General Counsel to learn more about the project?

7. Are there issues, concerns, or processes that should be addressed in T. REP so that the project functions effectively in support of access to representation for Native American Veterans within your Tribal government and/or community? If so, how do you recommend VA address those matters in this project?

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on February 8, 2022 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.

Luvenia Potts,

Regulation Development Coordinator Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2022–03084 Filed 2–11–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Monday,
No. 30 February 14, 2022

Part II

Federal Communications Commission

47 CFR Part 54
Affordable Connectivity Program; Emergency Broadband Benefit Program; Final Rule and Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 21–450 and 20–445; FCC 22–2; FR ID 71008]

Affordable Connectivity Program; Emergency Broadband Benefit Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Report and Order, the Federal Communications Commission (Commission or FCC) adopts final rules for the Affordable Connectivity Program, established by Congress in the Infrastructure Investment and Jobs Act (Infrastructure Act). The Affordable Connectivity Program is designed to make broadband service and connected devices available to eligible low-income households at affordable, discounted prices from providers that opt to participate in the program. The rules adopted in the Report and Order address, *inter alia,* the eligibility criteria for broadband service providers that opt to participate in the program, eligibility criteria for households that seek benefits, the types of broadband services and connected devices that will be covered, the amounts of reimbursements available to providers, claims procedures, consumer protection requirements, and reporting, auditing, enforcement, and related matters.

DATES: Effective March 16, 2022, except for 47 CFR 54.1802(b), 54.1804, 54.1807(b), 54.1808(c)(1) and (2), 54.1809(c), and 54.1810(a) and (b), which are effective April 15, 2022.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 21–450, by any of the following methods:

- *Electronic Filers:* You may file documents electronically by accessing the Commission's Electronic Comment Filing System (ECFS) at *https://www.fcc.gov/ecfs/filings.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

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

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to Federal Communications Commission, 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- Parties that need to submit confidential filings to the Commission should follow the instructions provided in the Commission's March 31, 2020 public notice regarding the procedures for submission of confidential materials. *See FCC Provides Further Instructions Regarding Submission of Confidential Materials,* Public Notice, DA 20–361, 35 FCC Rcd 2973 (OMD, March 31, 2000), *https://docs.fcc.gov/public/attachments/DA-20-361A1_Rcd.pdf.* All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

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

FOR FURTHER INFORMATION CONTACT: Eric Wu, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418–7400 or *eric.wu@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in WC Docket Nos. 21–450 and 20–445, FCC 22–2, adopted on January 14, 2022 and released on January 21, 2022. The full text of this document is available at *https://docs.fcc.gov/public/attachments/FCC-22-2A1.pdf.* The Further Notice of Proposed Rulemaking that was adopted concurrently with this Report and Order is to be published elsewhere in the **Federal Register**.

I. Introduction

1. In the Infrastructure Act, Congress established the Affordable Connectivity Program (ACP) on the basis of the preexisting Emergency Broadband Benefit Program (EBB Program), with modifications designed to transform it from an emergency response to a public health crisis to a longer-term program to support making discounted broadband service and connected devices available to low-income households. The Infrastructure Act includes an additional $14.2 billion appropriation for implementing the new program. The rules adopted in the Report and Order are largely based on the Commission's EBB Program rules, with modifications to reflect statutory changes adopted in the Infrastructure Act.

2. In particular, the Infrastructure Act changed the EBB Program's subscriber eligibility rules and benefit amounts by increasing the Affordable Connectivity Program's income threshold from 135% to 200% of the Federal Poverty Guidelines, adding the Special Supplemental Nutritional Program for Women, Infants, and Children (WIC) as a qualifying program, removing eligibility for households that qualified for the EBB Program based on factors related to income losses due to the COVID–19 pandemic, and reducing the standard monthly benefit from $50.00 to $30.00. *See* Infrastructure Act, div. F, tit. V, section 60502(b)(1), *amending* Consolidated Appropriations Act, 2021, Public Law 116–260, div. N. tit. IX, section 904(a)(6), (a)(7)(A) (2020); 47 U.S.C. 1752(a)(6), (a)(7)(A). Under the Affordable Connectivity Program, eligible households may apply subsidy benefits to any broadband services offered by a participating provider, rather than limiting the covered services to those offered on December 1, 2020, as in the EBB Program. Infrastructure Act, div. F, tit. V, section 60502(a)(3), *amending* Consolidated Appropriations Act, 2021, Public Law 116–260, div. N. tit. IX, section 904(a)(9), (b)(7); 47 U.S.C. 1752(b)(7)(A)(i). The Affordable Connectivity Program also includes modified obligations for participating providers relating to consumer protection and program promotion, as well as reporting, enforcement, auditing, and other provisions. These statutory provisions and rules implementing them are discussed following.

3. Pursuant to the Infrastructure Act, the Affordable Connectivity Program took effect on December 31, 2001. The Universal Service Administrative Company (USAC or the Administrator), which administers the Commission's universal service programs as well as the EBB and Affordable Connectivity Programs, began accepting applications and enrollments for the Affordable Connectivity Program on December 31, 2021. As of January 14, 2022, approximately 265,000 households had enrolled in the Affordable Connectivity Program and more than 9 million

households had transitioned into that newly-launched program from the EBB Program.

4. The Infrastructure Act directs the Commission to adopt rules to implement the Affordable Connectivity Program by January 14, 2022 (*i.e.,* within 60 days after November 15, 2021, the date of enactment of the statute). *See* 47 U.S.C. 1752(c)(1). As directed by the statute, a public notice initiating this proceeding and seeking comment on proposed rules was issued on November 18, 2021, *see* 47 U.S.C. 1752(c)(2); *see Wireless Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program,* WC Docket No. 21–450, Public Notice, DA 21–1453 (WCB Nov. 18, 2021) (*ACP Public Notice*); Proposed Rule, 88 FR 74036 (Dec. 29, 2021); and interested parties were given 20 days to file comments (due Dec. 8, 2021) and 20 days for reply comments (due Dec. 28, 2021). In response, the Commission received comments from broadband providers, State and local governments, educational groups, consumer groups and other non-profits, and individual consumers.

II. Discussion

A. Participating Providers

5. The Infrastructure Act defines an eligible ''participating provider'' as a broadband service provider that has either received Eligible Telecommunications Carrier (ETC) designation under 47 U.S.C. 214(e) or requested and obtained the Commission's approval as such. *See* 47 U.S.C. 1752(a)(11)(A). This definition is consistent with the definition of ''participating provider'' in the Consolidated Appropriations Act for purposes of the EBB Program; and as in the EBB Program, provider participation in the Affordable Connectivity Program is voluntary. 47 U.S.C. 1752(a)(11)(A). Nothing in the Infrastructure Act requires changes to the EBB Program framework through which providers may seek to participate in the Affordable Connectivity Program, including the participating provider election process, the ''expedited approval process'' to approve requests to participate by providers that are not designated ETCs, *see* 47 U.S.C. 1752(d)(2)(A), or the ''automatic approval process'' for providers with an ''established program as of April 1, 2020'' for offering broadband services to eligible households with verification processes sufficient to prevent fraud, waste, and abuse. *See* 47 U.S.C. 1752(d)(2)(A), (d)(2)(B). Providers that participated in the EBB Program and were in good standing as of December 31, 2021 when the EBB Program ceased can continue to participate in the same manner in the Affordable Connectivity Program without seeking Bureau approval or filing election notices. This includes providers with alternative verification process approvals. Providers that did not participate in the EBB Program and have not been designated as ETCs by a State or the Commission must file for automatic approval or expedited approval from the Commission. All new providers to the Affordable Connectivity Program will need to file USAC election notices.

1. Providers Eligible To Participate

6. *Participating Provider Eligibility Requirements.* The Commission retains the broad, technologically neutral approach to provider participation that was used in the EBB Program. ETCs and non-ETCs seeking to participate in the Affordable Connectivity Program must establish that they provide broadband services to participate, and the Commission declines to further narrow provider eligibility among those providers that offer broadband services as defined by the statute. This interpretation continues to allow participation by ETCs and non-ETC broadband providers, including not only traditional internet Service Providers (ISPs) such as cable providers and wireless internet service providers, but also non-traditional broadband providers like community-owned networks, electric cooperatives, and municipal governments.

7. The Infrastructure Act removes the Consolidated Appropriations Act's requirement that the broadband services supported by the program must have been offered ''in the same manner, and on the same terms, as described in any of such provider's offerings for broadband internet access service to such household, as on December 1, 2020,'' Consolidated Appropriations Act, 2021, div. N, tit. IX, section 904(a)(9), *struck by* Infrastructure Act, div. F, tit. V, section 60502(b)(1)(A)(iv); 47 U.S.C. 1752(a)(8), and imposes a new requirement that providers ''allow an eligible household to apply the affordable connectivity benefit to any internet service offering of the participating provider, at the same rates and terms available to households that are not eligible households.'' 47 U.S.C. 1752(b)(7)(A)(i). While the EBB Program required participating providers to have offered retail broadband internet access service to eligible households as of December 1, 2020, the Infrastructure Act removed the December 1, 2020, restriction, and therefore participating providers will only need to establish they offered broadband services to end-users prior to seeking to participate in the Affordable Connectivity Program. Participating providers can establish through certification that they provided broadband internet access service and reimbursable internet service offerings either by timely filing the FCC Form 477 or by filing a certification, under penalty of perjury, that they provided broadband service, prior to submitting the application. As in the EBB Program, such retail broadband internet access service must be offered or provisioned to end users, meaning the provider of retail broadband internet access service maintains a direct relationship with the customer, is responsible for dealing with customer complaints, handles customer billing, and provides quality of service guarantees to the end user.

8. *Existing EBB Program Participating Providers.* In order to enable a quick and orderly transition period by reducing administrative burdens for participating providers, the Commission, and USAC, the Commission allows existing EBB Program participating providers in good standing to be automatically eligible to participate in the Affordable Connectivity Program. Automatically transitioning participating providers from the EBB Program to the Affordable Connectivity Program helps ensure that eligible households continue to receive the Affordable Connectivity Program discount without disruptions.

2. Elections To Participate in the Affordable Connectivity Program by Existing EBB Program Providers, Existing ETCs and Bureau-Approved Providers

9. Providers that did not participate in the EBB program but wish to participate in the Affordable Connectivity Program will be required to file election notices with USAC to facilitate the administration of the program and provide USAC the necessary information to incorporate providers into its systems for eligibility determination, enrollment, and reimbursement. This also applies to providers seeking to add new jurisdictions (States or territories). Existing ETCs will need to file election notices with USAC only, while non-ETCs will need to first apply for and then obtain Bureau approval prior to filing their election notices with USAC. The Commission directs the Bureau and USAC to work expeditiously to review provider applications and elections, respectively, and directs the Bureau to issue additional guidance and instruction as necessary for providers seeking to participate in the Affordable

Connectivity Program. Further, the Commission expects the Bureau and USAC to prioritize their reviews to limit excessive delay in issuing approvals of the applications and elections once properly submitted by the providers.

a. Election Notice Process and Requirements

10. The Commission directs USAC, under the supervision of and in coordination with the Bureau, to establish and administer a process to enable all new participating Affordable Connectivity Program providers to file election notices containing information sufficient to effectively administer the program, including the information discussed following. Participating providers must certify under penalty of perjury that the information set forth in the election notice is true, accurate, and complete; they understand and will comply with all statutory and regulatory obligations described within the Order; and all terms and conditions and other requirements applicable to using the Lifeline National Eligibility Verifier (National Verifier), National Lifeline Accountability Database (NLAD), Representative Accountability Database (RAD), and other USAC systems. Providing materially false information in the election notice will disqualify a provider from participation in the Affordable Connectivity Program or result in a reduced reimbursement, as appropriate. 47 U.S.C. 1752(a)(11), (d).

11. Provider elections must include the following information to establish that the provider has met the criteria and can provide enough information to allow USAC to administer the program.

(a) *List of States or territories in which the provider plans to participate in the Affordable Connectivity Program.* A provider must list each State in which it will offer Affordable Connectivity Program services. Consistent with USAC's existing processes, providers should identify to USAC the postal ZIP code(s) or Census Block(s) where the provider will offer the Affordable Connectivity Program service to obtain Service Provider Identification Number(s) (SPINs), Study Area Codes (SACs), and provide information for use in the ''Companies Near Me Tool'' to the extent necessary.

(b) *A statement that, in each such State or territory, the provider was a ''broadband provider.''* Consistent with the Commission's broadband data reporting rules, participating providers will be able to establish that they provided broadband internet access service and reimbursable internet service offerings through reference to previous FCC Form 477 filings. The Commission will consult the subscription data provided on the FCC Form 477 and any successor filing to determine compliance with this requirement. To fulfill this requirement, a provider should reference the most recent FCC Form 477 data month submission showing service in the jurisdiction. Providers that are not required to file FCC Form 477 must certify that they provided retail broadband internet access service to end users, submit supporting documentation demonstrating such offerings, and identify the underlying carrier providing the network facilities.

(c) *A statement identifying where the provider is an existing ETC.* A provider who is an ETC or is affiliated with an ETC seeking to begin offering the Affordable Connectivity Program must submit to USAC documentation demonstrating that it is a participating provider in specific states.

(d) *A statement identifying where the provider received Bureau approval to participate in the Affordable Connectivity Program.* Providers seeking approvals outside of states where they are existing ETCs or are affiliated with existing ETCs (within the meaning of ''affiliate'' in 47 U.S.C. 153(2)) will need to identify those states and submit the statement to the Bureau for approval to participate in the program.

(e) *A statement confirming whether the provider intends to distribute connected devices and supporting documentation.* Providers seeking reimbursement for connected devices must submit a statement of intent to distribute connected devices as part of their election notice. These providers should also include documentation detailing the equipment, including device make, device model, device type, device characteristics (*e.g.,* screen size, storage, memory) and market value of the laptop, desktop or tablet. Connected devices must be accessible to and usable by users with disabilities.

12. Providers newly seeking to participate in the Affordable Connectivity Program must obtain and be able to provide the necessary administrative registrations to utilize the Commission and USAC processes, including the Commission Registration System (CORES), FCC Registration Number (FRN), Service Provider Identification Number(s) (SPINs), Study Area Codes (SACs), System for Award Management (SAM), Employer Identification Number (EIN), Tax Identification Number (TIN) and/or Dun & Bradstreet DUNS number for all entities the provider anticipates seeking reimbursement. The FRN, EIN/TIN, and DUNS should all be associated with the same entity filing the election notice, and the provider should identify any parent/subsidiary or affiliate relationships it has with other broadband service providers. *See* 47 U.S.C. 153(2) (defining affiliate). An election should be filed for every entity expecting to receive reimbursement from the Affordable Connectivity Program.

13. The Commission will not collect broadband internet service plan information during the election process, and participating providers do not have to file broadband service plan information during the USAC election process or update existing service plan information that they previously filed during the EBB Program election process. Providers are on notice of the statutory requirement to offer ACP discount on ''any internet service offering'' and the requirement adopted in the Order to certify compliance with the ACP rules as a condition of participation.

14. The Commission directs USAC, in coordination with the Bureau, to expeditiously process election notices and to establish necessary systems and processes to systematically review election notices on a rolling basis. USAC should notify a provider promptly if its election notice is incomplete or otherwise contains errors that prevent USAC from processing the election notice. USAC will only reject election notices that are materially incomplete and that the provider fails to update.

b. Obligations of Providers Electing To Participate in Affordable Connectivity Fund

15. The Commission has authority under the Infrastructure Act to require participating providers to make available the necessary information and certifications to obtain access to the existing USAC systems needed to administer the Affordable Connectivity Program, and it authorizes USAC to continue to make available the appropriate databases to administer the program, including the National Verifier, NLAD, RAD, and Lifeline Claims System (LCS), and to take the appropriate actions to update, modify, or create the necessary systems to administer the Affordable Connectivity Program in line with the Commission's direction in the Order. The Commission also directs the Bureau and the Office of Managing Director (OMD) to supervise and coordinate with USAC all actions necessary to continue to make USAC databases and systems available for the Affordable Connectivity Program.

16. *Access to Affordable Connectivity Program Systems.* The Commission further requires participating providers to use USAC systems, such as the LCS, NLAD, and RAD, for program administration, and permits them to use the National Verifier to determine household eligibility if they do not have approved alternative verification processes. *See* 47 U.S.C. 1752(b)(3), (i)(5). Based on the Commission's experience with the EBB Program, the Commission will continue to rely on the USAC-administered National Verifier, NLAD, RAD, LCS, and other established processes, including the provider reimbursement process, call centers for program support, provider and consumer outreach, and conducting program integrity reviews. The Commission directs the Bureau and USAC, as directed by the Bureau, to issue any further guidance or instruction necessary to clarify the obligations of participating providers when using USAC databases and the administrative process established for the Affordable Connectivity Program.

17. *Required Updates to Election Notice Information Resulting from Transactions of Participating Providers.* Participating providers must maintain up-to-date information in their election notices filed with USAC and shall keep the identifying information specified in those notices, including points of contact, FRN, EIN/TIN, and DUNS, up to date. Participating providers must update this information following any transaction that would result in a change to the identifying information submitted on an election notice (although they need not seek approval specifically for continued participation in the Affordable Connectivity Program following transfers of ownership or control under 47 U.S.C. 214). Providers must submit updated and accurate contact information and similar administrative information within ten business days of the change in information.

c. Sales Agent Financial Incentives for Enrollments

18. Consistent with the EBB Program rules, the Commission continues to require all participating providers to have their agents and other enrollment representatives registered with the Representative Accountability Database (RAD), as is currently required for the Lifeline and EBB Programs, as a way to minimize waste, fraud, and abuse. To address the potential for waste, fraud, and abuse caused by commission-based compensation for sales agents, the Bureau proposed prohibiting any commission compensation for enrollment representatives or direct supervisors. *ACP* Public *Notice,* 86 FR at 74040–41, para. 18. At this time, the Commission declines to adopt a strict prohibition on participating providers offering commission-based compensation to employees, sales agents, or similar enrollment representatives. The Commission instead adopts a more limited prohibition on participating providers and, as done for Lifeline, restricts them from offering or providing to their enrollment representatives or direct supervisors any commission compensation that is based on the number of households who apply for, are enrolled in, or receive the Affordable Connectivity Program benefit from that provider, or based on revenues the participating provider receives in connection with the Affordable Connectivity Program, including payments for connected devices. In the *EBB Program Order,* the Commission declined to apply this prohibition to the EBB Program ''to avoid discouraging provider participation and diminishing consumer choice'' in a temporary program. *Emergency Broadband Benefit Program,* 86 FR 19532, 19559, para. 142 (April 13, 2021) (*EBB Program Order*).

19. The considerations for the more permanent Affordable Connectivity Program are different, and our experience during the EBB Program with agent-driven, apparent improper enrollments necessitates adopting a program ban on agent commission compensation similar to the Lifeline Program. For example, the FCC's Office of Inspector General (OIG) recently issued an advisory raising concerns about potential waste, fraud and abuse with respect to EBB Program enrollments based on the USDA National School Lunch Program's Community Eligibility Provision (CEP). *See generally Advisory Regarding Fraudulent EBB Enrollments Based on USDA National School Lunch Program Community Eligibility Provision* (FCC OIG Nov. 22, 2021), *https://www.fcc.gov/document/fcc-inspector-general-advisory-regarding-ebb-enrollment-fraud* (*OIG Advisory*); *Wireline Competition Bureau Announces Additional Program Integrity Measures for Emergency Benefit Program Enrollments Based on the Community Eligibility Provision,* WC Docket No. 20–445, DA 21–1464 (WCB Nov. 22, 2021). Specifically, the advisory observes and describes certain problems associated with the CEP enrollment process that involve misconduct by sales agents. *OIG Advisory* at 2–3. While the Bureau and USAC have engaged in remedial actions to prevent this specific abuse, the Commission is concerned that the financial incentives for provider sales agents based on enrollments and applications invites program waste.

20. This decision is bolstered by a similar restriction in the Lifeline program. In 2019, the Commission banned this practice in the Lifeline program, holding that ''while the National Verifier plays an important role in helping to address waste, fraud, and abuse in the program, we do not believe that it will eliminate the financial incentives for individuals to attempt to defraud the Lifeline program. Commissions based on the number of Lifeline applications or successful Lifeline enrollments are one such incentive, and by limiting them today, we remove a financial incentive for committing fraudulent activity.'' *Bridging the Digital Divide for Low-Income Consumers,* Final Rule, 84 FR 71308, 71315, para. 52 (Dec. 27, 2019) (*Lifeline Fifth Report and Order*). The Commission finds this rationale persuasive. While the Commission initially declined adopting such a ban for the EBB Program to not discourage provider participation, given the robust provider participation and household enrollments seen in the EBB Program, the Commission finds the public interest is better served by preventing waste, fraud, and abuse caused by incentives related to commissions.

21. In considering this decision, the Commission is not persuaded by comments in the record suggesting that such a limited commission-based compensation prohibition is unnecessary or that representative registration in the RAD alone is sufficient to prevent waste, fraud, and abuse. In the Commission's experience, both in Lifeline and the EBB Program, agent registration does not remove the financial incentive to improperly enroll a household when the agent is compensated based on the enrollment. *See OIG Advisory* at 2–3. Further, agent registration allows for audits, trend analysis, and other remedial actions after the improper enrollment occurs, but does little to prevent the improper behavior or remove the incentive for abuse. Commenters additionally suggest that the Lifeline commission ban was a stop-gap measure that was put in place prior to the full launch of the National Verifier and thus does not need to be implemented in the Affordable Connectivity Program, which utilizes the National Verifier. The Commission, however, continues to ban commission-based compensation in the Lifeline program following the full deployment

of the National Verifier, and the Commission has recognized that the National Verifier itself does not remove the financial incentives for sales agents to improperly enroll ineligible households. *Lifeline Fifth Report and Order,* 84 FR at 71315, para. 52.

22. The Commission considered a stricter prohibition that would bar any commission-based compensation to participating providers' enrollment representatives. *ACP Public Notice,* 86 FR at 74040–41, para. 18. However, because this broad prohibition may have had unintended consequences given the frequency broadband providers use commission-based compensation for their enrollment representatives across multiple services and business operations, the Commission limits the prohibition to only commissions based on ACP applications, enrollments, participation, or revenues, thus striking a balance in preventing certain abuses in the program while reducing the logistical and administrative burden for participating providers that a blanket prohibition on commissions may have caused. Finally, the Commission finds support in the record to ban agent compensation based on ACP applications and enrollments from commenters recognizing the financial incentive to enroll consumers can result in misleading and improper information being provided to consumers to induce enrollments or other abusive behaviors.

23. Accordingly, the Commission prohibits participating providers from offering or providing commissions to enrollment representatives and their direct supervisors based on the number of consumers who apply for, are enrolled in, or receive the affordable connectivity benefit from that provider. This restriction applies to an employee, agent, contractor, or subcontractor, acting on behalf of a participating provider or third-party entity, who directly or indirectly provides information to the Administrator for the purpose of eligibility verification, enrollment, subscriber personal information updates, benefit transfers, or de-enrollment. For purposes of this rule, a provider's payment to a third-party entity that in turn provides commissions to an enrollment representative is subject to this prohibition. Likewise, the Commission determines that providers who allow agents to retain cash payments for device purchases related to the ACP enrollments are providing an incentive based on ACP enrollments, and thus this activity is also prohibited under these rules. This restriction strikes the balance between a blanket commission prohibition that may have been logistically and administratively difficult for participating providers given the frequent use of this practice for broadband providers in general service initiations and the goal of preventing waste, fraud, and abuse caused by the financial incentives to enroll any household in the Affordable Connectivity Program through the use of commissions. This restriction is not intended to prevent providers from using customer service representatives to assist consumers in the application and recertification processes, but customer service representatives should not be compensated based on the number of customer applications that are approved. Further, this restriction only applies to commissions related to ACP applications, participation, enrollments, or revenue, and while it does not prohibit commissions paid for sale of service or provider business incentives unrelated to the Affordable Connectivity Program, it does not authorize providers to shift commissions that would have been paid for ACP applications, enrollments, or revenues to other services or business operations. This approach to restricting commissions based on ACP applications is supported by commenters that recognize this compromise addresses potential improper behaviors while not causing overly burdensome implementation for participating providers.

d. Provider Annual Certification Requirements

24. Providers are required to submit to USAC annual officer certifications relating to the Affordable Connectivity Program. The officer with responsibility for a participating provider's ACP activity shall certify, under penalty of perjury, that the participating provider has policies and procedures in place to ensure compliance with ACP rules. This annual certification is necessary to ensure that all ACP providers are vigilant against waste, fraud, and abuse, and are undertaking efforts to ensure compliance with the ACP rules, which will be particularly important as this program is anticipated to last multiple years. At a minimum, the annual certification will require ACP providers to attest that they have policies and procedures to ensure the eligibility of their subscribers to receive ACP support and for ensuring the accuracy and completeness of the information they provide to the National Verifier and NLAD; an acknowledgement that providers are liable for violations of ACP rules and that their liability extends to violations by their agents, contractors, and representatives; and other information deemed necessary by the Bureau to ensure that providers have a plan for complying with ACP rules. The Commission directs the Bureau to develop an annual officer certification and submission process with USAC and set a uniform deadline for all providers to submit this annual certification.

3. Non-ETC Provider Applications and Approval Process

a. Automatic Approval Process for Providers With Existing Support Programs

25. The Commission adopts an automatic approval process to enable non-ETC broadband providers with ''an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse'' to be automatically approved upon the filing of information meeting the criteria. 47 U.S.C. 1752(d)(2)(B). Any non-ETC broadband provider seeking to qualify for such automatic approval must file an application describing: (1) The states or territories in which in which it plans to participate, (2) the service areas in which the provider has the authority, if needed, to operate in each State, but has not been designated an eligible telecommunications carrier, and (3) a description, supported by documentation, of the established program with which the provider seeks to qualify for automatic admission to the Affordable Connectivity Program.

26. *Established Program as of April 1, 2020.* The Commission maintains the interpretation it adopted in the EBB Program of what constitutes an ''established program'' that is ''widely available'' while accounting for the Infrastructure Act's modifications to the statute. This requirement encompasses any eligible broadband provider that maintains an existing program that was made available by April 1, 2020, offering broadband to subscribers meeting at least one of the criteria in the statute's definition of an eligible household. Specifically, providers offering broadband subscribers discounted rates based on criteria such as low-income, participation in Federal, State, or local assistance programs, or other means-tested eligibility criteria qualify for this automatic approval process. 47 U.S.C. 1752(a)(6)(D). However, the Infrastructure Act removes eligibility for households that qualified based on a provider's COVID–19 program or having experienced a substantial loss of income since February 29, 2020. In keeping with the

directive of Congress, the Commission modifies the requirements of what constitutes an ''established program'' to reflect the removal of COVID–19-specific response programs and other short-term bill forbearance or forgiveness programs. A provider seeking to participate in the Affordable Connectivity Program can demonstrate an ''established program'' for automatic approval by submitting information demonstrating that it maintains an existing low-income program that was made available by April 1, 2020, to subscribers meeting at least one of the criteria in the revised definition of an eligible household. To qualify for automatic approval, providers must demonstrate that they are offering broadband subscribers discounted rates based on criteria such as low-income, participation in Federal, State, or local assistance programs, or other means-tested eligibility criteria, and must also demonstrate the pre-existing verification process used for this existing program. The principal consideration in determining an ''established program'' for automatic approval is whether subscribers receive or were eligible to receive a financial benefit through reduced rates. A program is ''widely established'' when it was offered to subscribers in a substantial portion of the service provider's service area in a particular State.

27. *Required Verification Processes.* The Infrastructure Act requires that providers seeking automatic approval to participate in the Affordable Connectivity Program have established programs that maintain verification processes that are ''sufficient to avoid fraud, waste, and abuse.'' 47 U.S.C. 1752(d)(2)(B). Providers that have been offering a broadband program for eligible households prior to submitting applications for automatic approval and are submitting applications for automatic approval must describe only the established program and participation requirements to meet the approval criteria.

28. Providers that receive automatic approval to participate in the Affordable Connectivity Program will use the National Verifier and the National Lifeline Accountability Database (NLAD) to verify household eligibility or their own alternative household eligibility verification processes, or the combination of both, before seeking reimbursement. To ensure the eligibility of the households enrolled through an approved alternative verification process, the Commission directs USAC to conduct quarterly program integrity reviews to ensure that subscribers enrolled through a provider's alternative verification process are eligible for the Affordable Connectivity Program.

29. *Timing of Approvals.* Providers that file applications certifying to and making necessary demonstrations for the criteria outlined preceding will receive approval automatically once the Bureau confirms all required information was submitted.

b. Expedited Review Process for Non-ETC Providers

30. The Commission adopts an expedited review process for non-ETC providers that do not qualify for automatic application processing and are not affiliated with an ETC in the same jurisdiction consistent with the EBB Program. Such providers must file an application for expedited review to receive approval from the Bureau to participate in the Affordable Connectivity Program by establishing a sufficient showing that they have met the criteria for expedited review and approval, as outlined following.

(a) *A list of states or territories where the provider will offer Affordable Connectivity Program services.* A provider seeking approval must list each jurisdiction in which it seeks to be approved to offer ACP-supported services. While the provider need only identify the State or territory where it plans to offer qualifying services for purposes of its submission to the Bureau, providers should be prepared to identify to USAC in their election the postal ZIP code(s) or Census Block(s) where Program service will be offered to obtain Service Provider Identification Number(s) (SPINs) or Study Area Codes (SACs), as necessary.

(b) *A statement identifying the jurisdiction in which the provider requires FCC approval and jurisdictions in which the provider is an existing ETC.* A provider that is designated as an ETC or affiliated with an ETC (*see* 47 U.S.C. 153(2), defining ''affiliate'') in some states or territories must submit an application and obtain Bureau approval to participate in the Program in states or territories where the provider is not designated as an ETC. Providers without ETC designations or unaffiliated with ETCs must certify that they are authorized to provide broadband services.

(c) *Certification of the provider's plan to combat waste, fraud, and abuse.* Participating provider applications must include a certification that the provider understands and complies with all statutory and regulatory obligations, including those described within the Order, as a condition of offering ACP-supported services. Specifically, a provider must certify that it will:

(i) Confirm a household's eligibility for the Program through either the National Verifier or a Commission-approved eligibility verification process prior to seeking reimbursement for the respective subscriber;

(ii) follow all enrollment requirements and obtain all certifications as required by the Program, including providing eligible households with information describing the Program's eligibility requirements, one-per-household rule, and enrollment procedures;

(iii) interact with the necessary USAC systems, including the National Verifier, NLAD, and RAD, before submitting claims for reimbursement, including performing the necessary checks to ensure the household is not receiving duplicative benefits within the Program;

(iv) de-enroll from the Program any household it has a reasonable basis to believe is no longer eligible to receive the benefit consistent with Program requirements;

(v) comply with the Program's document retention requirements and agree to make such documentation available to the Commission or USAC, upon request or any entities (for example, auditors) operating on their behalf; and

(vi) agree to the Commission's enforcement and forfeiture authority.

c. Alternative Verification Process Applications

31. The Infrastructure Act allows a participating provider to ''rely upon an alternative verification process of the participating provider,'' to determine household eligibility and enroll households in the EBB program, subject to certain conditions. 47 U.S.C. 1752(b)(2)(B). The statute provides that the ''participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement,'' and the Commission has seven days after receipt of the information to notify the participating provider if its ''alternative verification process will be sufficient to avoid waste, fraud, and abuse.'' *Id.* This approval allows participating providers to verify all household eligibility criteria through their own eligibility verification process in addition to, or instead of, using the National Verifier.

32. *Participating Provider Eligibility to Use an Alternative Verification Process.* Providers' alternative verification processes must be at least as stringent as methods used by the National Verifier. The use of alternative verification processes is limited to providers that maintain an existing verification process used for their own self-subsidized low-

income program or other purpose unrelated to the EBB Program, Affordable Connectivity Program, or similar Federal assistance programs. Providers lacking an existing household eligibility verification process would not be able to demonstrate that a new process would be sufficient to avoid waste, fraud and abuse. These providers must use the NLAD, in conjunction with the National Verifier and the school-based eligibility as permitted by statute, 47 U.S.C. 1752(b)(2)(C), to determine household eligibility for the Affordable Connectivity Program.

33. Providers with approved EBB Program alternative verification processes can continue to use those processes when enrolling households in the Affordable Connectivity Program in a manner consistent with the Affordable Connectivity Program's revised eligibility criteria and these providers need not seek new Commission approval for their alternative verification processes that already are compliant with these requirements. However, providers with approved alternative verification processes must seek new Commission approval to verify any eligibility criteria not originally contained in prior approved processes or when the provider seeks to update or modify its approved alternative verification process.

34. *Alternative Verification Process Application Requirements.* Participating providers seeking to use alternative verification processes must collect a prospective subscriber's: (1) Full name, (2) phone number, (3) date of birth, (4) email address, (5) home and mailing addresses, (6) name and date of birth of the benefit qualifying person if different than applicant, (7) basis for inclusion in program (*e.g.,* SNAP, SSI, Medicaid, school lunch, Pell Grant, income, provider's existing program, etc.) and documentation supporting verification of eligibility, and (8) certification that the information included in the application is true. The provider is required to describe the processes it (or a third-party) uses to verify the required information and is required to explain why the alternative process would be sufficient to avoid waste, fraud, and abuse. The provider is also required to explain how it trains its employees and agents to prevent ineligible enrollments, including enrollments based on fabricated documents. If the alternative verification process fails to include any of the required information, the provider is required to explain why such information was not necessary to prevent waste, fraud, and abuse. Finally, a provider must describe why its established program requires approval of an alternative verification process and it is required to explain why it proposes to use an alternative verification process instead of the National Verifier eligibility determinations.

35. *Timing of Alternative Verification Process Approvals.* As set out by the statute, the ''participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement,'' and the Commission has seven days after receipt of the information to notify the participating provider if the participating provider's ''alternative verification process will be sufficient to avoid waste, fraud, and abuse.'' 47 U.S.C. 1752(b)(2)(B). The Bureau will issue decisions regarding the application or otherwise notify the provider of why the application is insufficient within seven business days of the receipt of the application. If the provider's application is incomplete, the seven-business-day timing will not begin until the applicant provides additional information requested from the Bureau. Providers that make changes to approved procedures are required to inform the Commission in writing of those changes by filing a new application documenting the changes.

B. Household Eligibility

1. One-Per-Household Limitation

36. The Affordable Connectivity Program provides ''eligible households'' a monthly discount on broadband service and a one-time benefit for a connected device. 47 U.S.C. 1752(a)(6), (a)(7)(A). The Consolidated Appropriations Act and the Infrastructure Act do not define ''household.'' The Commission adopts the definition of ''household'' used in Lifeline and the EBB Program for the Affordable Connectivity Program. The Commission directs USAC to implement measures to ensure that during the 60-day transition period, legacy EBB Program households cannot receive the transition period benefit amount and the affordable connectivity benefit at the same time, even if they submit new applications for the Affordable Connectivity Program.

37. To facilitate the administration of the one-per-household limitation, the Commission directs the Bureau, in coordination with USAC, to make any necessary revisions to the worksheet used by households seeking to enroll in the Affordable Connectivity Program that reside at the same address as another household that is already enrolled in the Program. Where a participating service provider seeks to enroll a subscriber whose eligibility was verified through an approved alternative verification process or school-based eligibility verification and that subscriber also resides at the same address as another household enrolled in the Affordable Connectivity Program, the service provider must collect and retain a household worksheet (in either online or paper format) and retain any other subscriber provided documentation relevant to a determination that the household is not receiving more than one ACP benefit under the Program rules. Where a service provider conducts eligibility determinations pursuant to an approved alternative verification process, those processes must include measures to confirm that a household, under the definition the Commission adopts here, is not receiving more than one Affordable Connectivity Program benefit. The Commission also directs USAC to conduct quarterly program integrity reviews to confirm that Affordable Connectivity Program subscribers who reside at the same address are in compliance with the one-per-household limitation.

2. Participating Service Providers Are Required To Check Their Internal Records for Potential Household and Individual Duplicates. This Requirement Is Consistent With the Requirement To Implement Policies and Procedures for Ensuring That A Household Is Eligible Under Program Rules. Qualifying Income and Eligibility Programs

38. Pursuant to the Infrastructure Act, 47 U.S.C. 1752(a)(6)(A–E), a household may qualify for the Affordable Connectivity Program if at least one member of the household: (1) Meets the qualifications for participation in the Lifeline program (with the modification that the qualifying household income threshold is at or below 200 percent of the Federal Poverty Guidelines for a household of that size); (2) has been approved to receive school lunch benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act, or the school breakfast program under section 4 of the Child Nutrition Act of 1966; (3) has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 in the current award year; (4) meets the eligibility criteria for a participating provider's existing low-income program, subject to approval by the Commission and any other requirements deemed by the Commission to be necessary in the public interest; or (5) receives assistance through the WIC Program, established

by section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786). The Infrastructure Act added WIC as a qualifying program for the Affordable Connectivity Program, raised the maximum income for qualifying based on household income for purposes of the Affordable Connectivity Program from 135 percent to 200 percent of the Federal Poverty Guidelines for a household of that size, and eliminated as qualifying criteria substantial loss of income since February 29, 2020, and participation in a provider's COVID–19 program. The Commission directs USAC to make the necessary changes to the relevant program systems, including NLAD, National Verifier, and LCS, and to update the acceptable documentation guidelines in order to implement the eligibility criteria for the ACP.

39. *Implementation of WIC as a Qualifying Program.* The Commission directs the Bureau, in conjunction with USAC, to identify and establish connection(s) with database(s) that could be used to automatically verify eligibility based on participation in WIC. To ensure that households can enroll in the Affordable Connectivity Program based on participation in WIC in the interim, while also promoting program integrity, the Commission directs USAC to develop acceptable documentation guidelines for WIC and to make adjustments to those criteria as needed to administer the program and guard against potential waste, fraud and abuse. The WIC documentation requirements should be at least as robust as the documentation requirements that USAC uses for other qualifying programs.

40. *Community Eligibility Provision and Similar Provisions, and Acceptable Documentation Period for School Lunch and Breakfast Programs.* Households may enroll based on a household member's enrollment in a school or school district that participates in the Community Eligibility Provision (CEP), through which schools or school districts provide free lunch or breakfast to all students without requiring an individual application for a meal benefit.

41. To prevent waste, fraud, and abuse in the Affordable Connectivity Program, households seeking to enroll based on the CEP are required to identify the CEP school and provide documentation demonstrating that a member of the household attends the identified CEP school. Households seeking to qualify based on a child or dependent's attendance at a CEP school should also provide the benefit qualifying person information when submitting their application. Furthermore, the school documentation that households submit must include the name of the student enrolled, the school year for which they are enrolled, the name and address of the school, and contact information for that school to validate that the proof of enrollment is for a CEP school. The Commission directs USAC to conduct quarterly program integrity reviews of a sample of households that enroll on this basis. USAC will de-enroll households that do not confirm their eligibility as required by the Commission's rules.

42. Households cannot qualify for the Affordable Connectivity Program based on a household member's enrollment in a school that participates in USDA Provisions 2 and 3, which, similar to the CEP, allow schools to provide free breakfast or lunch to all students without requiring individual annual applications. *See* USDA, *Provisions 1, 2, and 3, https://www.fns.usda.gov/cn/provisions-1-2-and-3* (last visited Jan. 14, 2022) (describing Provisions 2 and 3). Also, participation in the Summer School Food Service Program, which is separate from the school lunch and breakfast program, does not qualify a household to participate in the Affordable Connectivity Program.

43. Households who seek to enroll based on a current student's participation in a free and reduced price school lunch or breakfast program may qualify based on documentation from the current school year or the school year immediately preceding the application for the Affordable Connectivity Program. To qualify based on a household member's participation in a qualifying school lunch or breakfast program, the household member must be a current student at the time the ACP application is submitted. Program participants must notify their service providers if they are no longer eligible for the Affordable Connectivity Program, such as if no member of the household qualifies for the free and reduced price school lunch or breakfast programs or no member of the household attends school.

3. Enrollment of Eligible Households in the NLAD

44. *Use of the National Lifeline Accountability Database.* The NLAD will be used as a program-wide tool for enrollment, as well as the basis for reimbursement calculations and duplicate checks in all states, territories, and the District of Columbia, regardless of a State's NLAD opt-out status in the Lifeline program. Participating service providers must enroll all consumers participating in the Affordable Connectivity Program in the NLAD, regardless of whether the subscriber resides in a State that has opt-out status for the Lifeline program. The Commission directs USAC to make changes to the NLAD that are necessary to implement the rules and requirements that the Commission adopts in the Report and Order and to give participating service providers advance notice of any NLAD system changes for the Affordable Connectivity Program so they can make corresponding changes to their systems.

45. Eligible households can participate in both the Lifeline program and Affordable Connectivity Program for the same or different services. The Commission directs USAC to enable the NLAD to allow subscribers to have separate identifiers for the Lifeline program and the Affordable Connectivity Program, which can be associated with the corresponding Lifeline provider or Affordable Connectivity Program provider, as applicable.

46. Providers participating in the Affordable Connectivity Program must submit to the NLAD, at the time of enrollment, the same types of information that providers were required to submit to enroll households in the EBB Program. The required information sufficiently identifies the enrolled household for purposes of administering the program, including duplicate checks and verifying the applicant's status as alive, and provides information on the service, device, method of verifying eligibility and household qualification for the higher Tribal benefit level if applicable. Prior to transmitting subscriber information to the NLAD, service providers must also comply with the disclosure and consent requirements that the Commission adopts in the Report and Order and must submit changes to subscriber information to the NLAD within 10 business days.

47. Service providers are prohibited from enrolling or claiming ACP support if USAC cannot verify a subscriber's status as alive unless the subscriber provides documentation to demonstrate his or her status as alive. The Commission directs USAC to explore additional ways to improve the process, for example identifying and notifying service providers about potentially deceased subscribers, and to conduct program integrity reviews to ensure compliance with this requirement.

48. *Coordination With Lifeline Opt-Out States.* USAC and the three Lifeline opt-out states of Texas, California, and Oregon have worked together closely since the start of the EBB Program to streamline the enrollment of Lifeline

subscribers in those states into the EBB Program by providing weekly subscriber eligibility listing updates to USAC. To facilitate the enrollment of qualifying households in these states into the Affordable Connectivity Program, the Commission directs USAC to continue to work with these three states to explore additional ways to streamline and improve efficiency in the enrollment of Lifeline subscribers in these states into the Affordable Connectivity Program. Consumers in the Lifeline opt-out states can separately submit Affordable Connectivity Program applications, but they still need to undergo the applicable State eligibility processes.

4. Verifying Subscriber Eligibility and Identity

49. The Infrastructure Act maintained for the Affordable Connectivity Program the three methods for verifying household eligibility: The National Verifier, an approved service provider alternative verification process, and school-based eligibility verifications. Legacy EBB Program households who qualified under eligibility criteria that are still applicable to the Affordable Connectivity Program and households participating in Lifeline do not need to submit a new application or new eligibility documentation to participate in the Affordable Connectivity Program. However, existing Lifeline subscribers who do not already participate in the EBB Program will be required to affirmatively consent to participation in the Affordable Connectivity Program pursuant to the consumer consent and disclosure requirements outlined in the Order. Legacy EBB Program households are not required to provide new consent to continue the same service through the Affordable Connectivity Program with their current provider, except as may be required for the applicable transition path for that household.

50. *National Lifeline Eligibility Verifier.* The National Verifier is a system of systems with connections to State and Federal eligibility databases that can automatically check and confirm a household's eligibility electronically, followed by manual review of eligibility documentation for any applicants whose eligibility cannot be verified using an automated data source. The National Verifier has already been modified to make eligibility determinations based on the eligibility criteria that were added (WIC and income at or below 200% of the Federal Poverty Guidelines) and removed (substantial loss of income since February 29, 2020) in the Infrastructure Act for purposes of the Affordable Connectivity Program.

51. USAC's existing acceptable documentation guidelines must be used where manual reviews are conducted. The Commission directs the Bureau to coordinate with USAC to make changes to the documentation criteria as necessary to administer the Affordable Connectivity Program and promote program integrity.

52. The *ACP Public Notice* also sought comment on allowing applicants for the Affordable Connectivity Program to verify their identity through the last four digits of their social security number or other approved identity documentation, as was permitted for the EBB Program. *See ACP Public Notice,* 86 FR at 74045, para. 39. Many commenters explained that this flexibility removed obstacles to enrollment and resulted in additional consumers applying for the EBB Program that would not have applied if they were required to provide the last four digits of their social security number. The Commission is persuaded that continuing this approach for the Affordable Connectivity Program is justified because it supports increased program participation. Therefore, the Commission allows consumers seeking to apply for the Affordable Connectivity Program to verify their identity through the last four digits of their social security number or other approved identity documentation, and it encourages consumers to provide the last four digits of their social security number because this significantly reduces the time required for identity and eligibility verifications.

53. The Bureau, in conjunction with USAC, has already developed approval criteria for acceptable identity documentation, which include a government-issued ID (such as a State ID), passport, U.S. driver's license, U.S. military ID, or Individual Taxpayer Identification documentation. The Commission directs the Bureau to coordinate with USAC to make changes to the identity documentation requirements as necessary to administer the program and promote program integrity and the Commission directs the Bureau to work with USAC to explore whether other systems or databases could be used to verify the identity of consumers who provide alternative documentation instead of the last four digits of their social security number.

54. The Commission does not allow any third party, whether a service provider or neutral third party entity, to remotely submit an Affordable Connectivity Program application on behalf of a consumer who is not physically present with the party providing assistance. Where the National Verifier is used to conduct eligibility verifications, prospective subscribers must interact directly with the National Verifier. Third parties can assist households with completing a paper or online application, provided that the applicant is physically present and certifies and signs the application.

55. Eligible households may experience difficulty accessing or navigating the National Verifier on their own, and may require assistance to complete and submit applications for the Affordable Connectivity Program. It may be beneficial to provide access to the National Verifier to a limited number of neutral, trusted third party entities, such as schools and school districts, or other local or State government entities, for purposes of assisting consumers with completing and submitting an application for the Affordable Connectivity Program, provided that the consumer is physically present with the person providing assistance. The Commission directs the Bureau, in coordination with USAC, to conduct a one year test pilot for granting State or Tribal entity representatives access to the National Verifier for purposes of assisting customers with applying for the Affordable Connectivity Program. Consistent with current practice in the Lifeline program, those that are granted access to the National Verifier in this Pilot will be required to register in the Representative Accountability Database (RAD). Government entities participating in this Pilot (such as schools) may enter into partnerships with neutral non-profit organizations for purposes of raising awareness about the Affordable Connectivity Program and increasing the enrollment of eligible households, provided that the government entity informs the Bureau that it is partnering with a specific non-profit organization, access to the National Verifier through the Pilot is limited to actual representatives of the participating government entity, and enrollment activities through the National Verifier take place in the government entity's facility or other location maintained or operated by the government entity. Entities participating in this Pilot (and their neutral non-profit partners as applicable) must maintain neutrality with respect to ACP participating providers when assisting consumers in connection with this Pilot. The Bureau shall determine the scope of this Pilot, and the process for identifying potential participants. The Bureau may issue public notices or

engage with stakeholders as needed to obtain information necessary to establish this Pilot, and may make any necessary changes to the National Verifier to conduct the Pilot. Consistent with the current enrollment processes, the Bureau shall make sure that appropriate safeguards are in place for the Pilot to protect applicant's personally identifiable information. At the completion of the Pilot, the Bureau will send a report to the Commission summarizing the results of the Pilot.

56. *Eligibility Verifications Through Approved Service Provider Alternative Verification Processes.* As with the EBB Program, Affordable Connectivity Program providers using an approved alternative verification process must keep all documentation provided to them from the applicant used to make eligibility determinations for the document retention period specified herein.

57. *School-Based Eligibility Verifications.* Service providers relying on school-based eligibility verifications must collect and retain documentation of (1) the school providing the information; (2) the program(s) that the school participates in; (3) the household that qualifies (and qualifying student(s)) and (4) the program(s) the household participates in). Service providers must obtain parental consent for school-based eligibility verifications. The Commission directs USAC to conduct quarterly program integrity reviews to ensure that households enrolled based on school-based eligibility verification process are eligible for the ACP benefit.

5. Household Usage Requirements

58. *Non-Usage Period and Cure Period.* The Commission adopts the Lifeline usage rules for the Affordable Connectivity Program. Under these rules, where a provider does not assess or collect a monthly fee from the subscriber for the supported service, the subscriber must use their service at least once every 30 days, and after 30 consecutive days of non-usage, the provider is required to notify the consumer that they will be de-enrolled if they do not cure their non-usage in 15 days. The Commission requires de-enrollment of ACP subscribers for non-usage. Providers are prohibited from claiming support for a subscriber who has not used their service in the last consecutive 30 days unless the subscriber cures their non-usage within 15 days.

59. The 30-day usage and 15-day cure period for the Lifeline program, for non-use of services where the end-user is not assessed and does not pay a fee, sufficiently balance consumer interests and fiscal responsibility for purposes of the Affordable Connectivity Program. The Commission also finds that there are significant benefits to applying a uniform subscriber usage requirement for both the Lifeline program and the Affordable Connectivity Program. Having inconsistent usage rules for Lifeline and the longer-term Affordable Connectivity Program would likely result in significant consumer confusion and complicate provider compliance given that many households will participate in both programs and certain households may use both benefits on the same service. Where a household uses a Lifeline benefit and an affordable connectivity benefit for the same service from the same provider, to avoid consumer confusion, upon the effective date of the subscriber usage requirements for the Affordable Connectivity Program, the provider should track each subscriber's non-usage using the same rolling 30-day period that it is using to track the subscriber's usage for Lifeline.

60. The Commission declines to limit the subscriber usage requirements to free-to-the-end-user wireless service because that approach would arbitrarily distinguish between free-to-the-end-user wireline and wireless service, while still allowing service providers to continue receiving an ACP benefit for free-to-the-end-user service where the subscriber is not actually using their service. The subscriber usage requirements apply to all modalities of free-to-the-end-user ACP service.

61. If the participating provider bills a subscriber on a monthly basis and collects or makes a good faith effort to collect any money owed within a reasonable amount of time, the subscriber will not be subject to the usage requirements. Participating providers that fail to take such steps and do not de-enroll subscribers pursuant to the non-usage requirements the Commission adopts for the Affordable Connectivity Program may be subject to enforcement action or withholding of support.

62. *Definition of Usage.* The Commission adopts the definition of usage under the EBB Program and Lifeline for the Affordable Connectivity Program. This definition lists other activities, aside from the subscriber's actual use of the supported free-to-the-end-user service, that are considered ''usage'' for purposes of the subscriber usage requirement. The Commission does not expand the list of activities that constitute usage to include activation of a modem because the activation of a modem without actual usage is not a strong indicator of a subscriber's intention to use their service and the risk of waste is too great to justify the expansion of the definition of ''usage'' to include simply activating a modem without actual use of the supported service.

63. *Usage Tracking and Documentation Requirements.* Service providers are responsible for tracking subscriber usage and retaining appropriate usage documentation for purposes of compliance with the non-usage requirements of the Affordable Connectivity Program. The Commission directs the Bureau, the Office of Managing Director (OMD), and USAC to continue to use audits and program integrity reviews to monitor participating provider compliance with the subscriber usage requirements.

64. *Annual Subscriber Recertification Requirement.* The Commission adopts an annual (*i.e.,* once per calendar year) recertification requirement to ensure the continued eligibility of participating households. ACP subscribers will be given 60 days to respond to a recertification effort. Subscribers who do not respond or fail ACP recertification shall be de-enrolled.

65. ACP households who are also enrolled in Lifeline may rely on their Lifeline recertification for purposes of the annual recertification requirement for the Affordable Connectivity Program, which will reduce administrative burdens for ACP households and participating service providers. Where a household enrolled in both Lifeline and the Affordable Connectivity Program does not respond or fails recertification for Lifeline, the subscriber will still have an opportunity to demonstrate their continued eligibility for the Affordable Connectivity Program. The Commission also directs USAC to identify and implement ways to coordinate consumer recertification outreach for the two programs to minimize consumer response burdens and reduce the potential for consumer confusion.

66. For purposes of the annual recertification requirement, consistent with the approach in Lifeline, USAC will conduct recertifications for ACP subscribers whose eligibility was verified through the National Verifier processes and for whom the automated database connections in the National Verifier will be used whenever possible to recertify eligibility. The Commission directs USAC to make available an online form, paper form, and Interactive Voice Response (IVR) option for recertifying the eligibility of ACP subscribers whose eligibility cannot be verified through the National Verifier automated database connections. For

USAC-conducted recertifications, USAC will be responsible for de-enrolling subscribers who do not respond or fail ACP recertification. For USAC-conducted subscriber recertifications, the Commission directs USAC to develop processes to inform participating providers about the status of USAC's recertification efforts and results for their specific ACP subscribers.

67. For households who enrolled in the Affordable Connectivity Program based on an approved alternative verification process or school-based eligibility verification, service providers will be required to conduct the subscriber recertification. For households enrolled in both Lifeline and the Affordable Connectivity Program, for purposes of recertifying eligibility for Lifeline, subscribers can only be recertified through the National Verifier or State process for the Lifeline NLAD opt-out states as applicable. Where the National Verifier did not initially verify subscribers' eligibility (such as where a provider's approved alternative verification process includes eligibility criteria that are unique to the provider's low-income program or where the provider, but not USAC, has already established a process with specific schools to verify subscriber eligibility based on participation in a free and reduced price school lunch or breakfast program) but the service provider decides to stop using these non-National Verifier methods to verify subscriber eligibility, the service provider shall notify USAC of that decision and USAC will recertify the impacted subscribers. Service providers conducting recertification based on these non-National Verifier subscriber eligibility verification methods are required to collect and retain the necessary subscriber eligibility documentation. In addition, where service providers conduct subscriber recertifications for the Affordable Connectivity Program, they must de-enroll subscribers who do not respond or are no longer eligible.

68. For purposes of this annual recertification requirement, new ACP subscribers who enrolled on or after December 31, 2021, will not be required to recertify their ACP eligibility until 2023. Legacy EBB subscribers who transitioned to the Affordable Connectivity Program will need to recertify their eligibility for the ACP by December 31, 2022. Legacy EBB Program subscribers who qualified for the EBB Program based on substantial loss of income or a provider's COVID–19 Program and already demonstrated their ACP eligibility before the end of the 60-day transition period will not be required to recertify for purposes of the Affordable Connectivity Program requirements again until 2023.

6. De-Enrollments

69. The Commission adopts for the Affordable Connectivity Program the same de-enrollment rules it adopted for the EBB Program and the Lifeline program, and continues to allow USAC to directly process de-enrollment requests from subscribers. For general de-enrollments and de-enrollments for duplicative support, service providers must process the de-enrollment within five business days after the expiration of the subscriber's deadline to demonstrate eligibility, or within five business days of notification from the Administrator that the subscriber is receiving more than one benefit per household. For de-enrollments initiated by the subscriber, the service provider must de-enroll the subscriber within two business days after the de-enrollment request.

70. ACP households who are subject to the usage requirement and do not cure their non-usage within 15 days must be de-enrolled, and subscribers who do not respond or fail recertification must also be de-enrolled. For de-enrollments for no response or failure to recertify, service providers must de-enroll the subscriber within five business days of the subscriber's time to respond to the recertification efforts. As with Lifeline and the EBB Program, when a service provider de-enrolls a subscriber from the Affordable Connectivity Program, the service provider must transmit to the NLAD the date of the Affordable Connectivity Program de-enrollment within one business day of de-enrollment.

C. Covered Services and Devices

71. *Services.* The Infrastructure Act permits eligible households participating in the Affordable Connectivity Program to receive a discount off the cost of broadband service and certain connected devices, and participating providers to receive a reimbursement for providing such discounts. The Infrastructure Act defines ''internet service offering'' as broadband internet access service provided to a household by a broadband provider, and retains the definition of broadband internet access service provided in 47 CFR 8.1(b). The Infrastructure Act further provides that the ''affordable connectivity benefit'' means a ''monthly discount for an eligible household applied to the actual amount charged to such household.'' The Commission interprets the Infrastructure Act's reference to a ''monthly discount . . . applied to the actual amount charged'' to exclude broadband service products that are based primarily on the data allowance of the product (for example, a purchase of 1 GB of data for $5.00) and are sold separate from a monthly recurring service plan. The Infrastructure Act's application of the affordable connectivity benefit as a monthly discount off the actual amount charged to the subscriber means that service plans that are already offered with no fee to the end user—for example, as a result of Lifeline program support or other benefit programs—are not eligible for additional or duplicative support from the Affordable Connectivity Program.

72. The Infrastructure Act adds a requirement that a participating provider ''shall allow an eligible household to apply the affordable connectivity benefit to any internet service offering of the participating provider, at the same terms available to households that are not eligible households.'' The Commission interprets ''any internet service offering,'' for any particular customer, to include any broadband internet plan in which the customer is currently enrolled (regardless of whether it is a legacy grandfathered plan) as well as any broadband internet plan that a provider currently offers to new customers. The requirement that legacy or grandfathered plans be eligible for reimbursement does not require that providers offer such legacy or grandfathered plans to other customers, including ACP-eligible customers, that are not already on such plans. However, providers may not exclude any of their generally available or actively sold internet service offerings from the affordable connectivity benefit.

73. Due to the volume and unique complexities of coding and including legacy or grandfathered plans in the Affordable Connectivity Program, the Commission finds that providers should have an additional 60 days after publication of the Order in the **Federal Register** to complete necessary changes and ensure that the affordable connectivity benefit can be applied to all generally available and currently sold plans. While providers must also allow existing subscribers to apply the affordable connectivity benefit to legacy or grandfathered plans, the Commission considers this requirement satisfied if providers accommodate requests by existing subscribers to apply the affordable connectivity benefit to legacy or grandfathered plans on a case-by-case basis no later than 60 days after the request.

74. Taxes and governmental fees may be included as part of the reimbursable internet service offering, since they are part of the ''amount charged'' to a consumer. By allowing the benefit to be applied to taxes and governmental fees, providers can extend to consumers $30 ''all-in'' broadband offers that include taxes and governmental fees and can avoid charging small bills for taxes and fees alone.

75. The Commission finds that the Infrastructure Act's requirement that providers allow an eligible household to apply the Affordable Connectivity Program benefit to ''any internet service offering of the participating provider, at the same terms available to households that are not eligible households'' does not preclude providers from making internet service offerings that are only available to ACP subscribers, provided that that the terms are at least as good as plans that are available to non-eligible households, and that providers cannot prevent subscribers from applying the affordable connectivity benefit to other available internet service offerings or restricting such internet service offerings in any way. However, to ensure minimal disruption to existing billing systems and processes, the Commission declines to require that providers participating in the Affordable Connectivity Program make available plans not available in a given geographic area that they offer elsewhere.

76. The Commission will collect data on the service plan characteristics—such as upload and download speeds, data allowances, and co-payment—associated with a subscriber's service plan, so it can gauge whether the Affordable Connectivity Program is providing value to households beyond what the Lifeline program offers and whether that value is in-line with market rates for broadband services, due to the immense value such data could provide. The Commission directs the Bureau and the Office of Economics and Analytics (OEA), with support from USAC, to determine appropriate avenues to collect service plan characteristics, such as possible future modifications to NLAD or conducting a provider survey, and the specific information that service providers must submit. The Commission directs the Bureau and OEA to balance the value of the information collected against the burden to service providers and must limit their efforts to those necessary to carry out the purposes of the Affordable Connectivity Program. Consumers would benefit from knowing which providers offer plans fully covered by the household discount and the availability of such plans in their area, so, the Commission directs USAC to make available, where possible, information about the availability of plans fully covered by the household discount. In doing so, USAC should consider planned information collections as well as other avenues for collecting this information while minimizing burden to providers.

77. *Minimum Service Standards.* Congress intended that ''any internet service offering'' be eligible for support in the Affordable Connectivity Program, 47 U.S.C. 1752(b)(7), and imposing minimum service standards would contradict the Infrastructure Act. Internet service offerings must include a broadband connection (as defined in 47 U.S.C. 1752(a)(8))—fixed or mobile—that permits households to rely on these connections for the purposes essential to telework, remote learning, and telehealth.

78. *Bulk purchasing arrangements and Multiple Dwelling Units (MDUs).* Eligible households that live at a single address, such as senior and student living, mobile home parks, apartment buildings, and Federal units, and that receive service as part of a bulk billing arrangement where the households are not directly billed for services by their internet service provider, but instead pay a monthly fee for broadband services to their landlord, should be permitted to participate in the Affordable Connectivity Program. In those situations, the participating provider claiming reimbursement must retain documentation demonstrating that the amount claimed by the provider is fully passed through to the eligible household as a discount off the monthly price that the eligible household otherwise would have paid to the bulk purchaser. Providers are required to retain documentation demonstrating the identity of the entity or entities through which the discount was passed, the eligible households who received the service, and consent by the eligible household allowing the participating provider to seek reimbursement. Homeless shelters, school districts, and libraries can also be considered bulk purchasers and allowed in the Affordable Connectivity Program, provided that the arrangements are set up in compliance with this Order.

79. Reimbursement will be permissible in MDUs—as it is with the typical provider/household relationship—where applying the affordable connectivity benefit to the household's broadband bill will result in the household not having a cost for broadband. In cases where the household does not pay a fee for the service, either to the provider or a bulk purchaser/aggregator, but the fee is paid by another entity, the service cannot be claimed for Affordable Connectivity Program support. However, if the household stops having the third party pay for the household's bill and instead seeks the discount through the Affordable Connectivity Program, the provider may seek reimbursement for the service.

80. In many cases, an MDU such as a large apartment building may have Wi-Fi deployed to an entire building as the broadband internet available to its residents. Such service qualifies as broadband internet access service eligible for reimbursement in the Affordable Connectivity Program, but eligible households must be charged a monthly fee for such service to be reimbursable.

81. A certification by the bulk purchasing entity that the discount from the service provider is fully passed through to the eligible households located in the MDU is not sufficient to demonstrate compliance with program rules. Documentation serves a critical role to protect against abuse in the program, and documentation requirements are particularly important where there is not a direct relationship between the broadband provider and the eligible household. The Commission therefore declines to allow a certification from the bulk purchaser as evidence that the discount has been passed through to the eligible household.

82. *Bundled Service Offerings.* Bundled service offerings such as those offering voice, data, and texting could be eligible for the affordable connectivity benefit, but the full benefit will not be allowed to be applied to the full price of broadband-bundled video service. While reimbursement cannot go toward the whole value of a bundle that includes video, the data, voice, and/or text messaging portions of the bundle can be reimbursable, but the video portion of any bundle must be apportioned out before determining the amount that is reimbursable for broadband purposes of the Affordable Connectivity Program. Fixed and mobile bundled services can be supported by the Affordable Connectivity Program, with the understanding that households with such bundles will only be entitled to a single benefit.

83. *Associated Equipment and Other Customer Premises Equipment.* The affordable connectivity benefit discount must be provided for internet service and associated equipment necessary for the transmission functions of the supported internet service offering,

including monthly rental costs for equipment such as modems, routers, and hotspot devices and antennas. Associated equipment should be eligible to be reimbursed as part of the service benefit.

84. *Connected Devices.* A participating provider that provides an ACP-supported broadband service to a household may be reimbursed up to $100 for a connected device delivered to the household, provided that the charge to such eligible household is more than $10 but less than $50 for such connected device (defined in the statute as a laptop, desktop computer, or a tablet). Because the statute does not include cellular phones or smartphones in the definition of ''connected devices,'' a connected device cannot include devices that can independently make cellular calls such as large phones or ''phablets.''

85. *Minimum System Requirements for Connected Devices.* A connected device supported by the Affordable Connectivity Program must support video conferencing platforms and other software essential to ensure full participation in online learning, be Wi-Fi enabled, have video and camera functions, and be accessible to and usable by those with disabilities. The device must be able to connect to all Wi-Fi access points and cannot be limited to use with any specific service provider.

86. *Application of Section 54.10.* The requirements of 47 CFR 54.10 apply to the Affordable Connectivity Program. Thus, Affordable Connectivity Program funds cannot be used to purchase or obtain a connected device (*i.e.,* laptop, desktop computer, or tablet) that is on a Covered List—*i.e.,* ''poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.'' 47 CFR 1.50002(b)(1). Providers must certify that the connected device that they are seeking reimbursement for complies with 47 CFR 54.10.

D. Reimbursement

1. Reimbursement for the Affordable Connectivity Benefit

87. The Commission adopts in its rules the Infrastructure Act's $30.00 standard monthly discount and reimbursement rate. To be reimbursed, providers are required to submit a reimbursement request based on the number of subscribers enrolled in NLAD on the snapshot date. Providers must review the snapshot report, validate the subscribers for which they are requesting reimbursement, indicate a reason for any unclaimed subscribers, and review, correct, and certify the requested reimbursement amount. The Commission will use the Lifeline Claims Systems to manage the reimbursement process for the Affordable Connectivity Program and will apply the uniform snapshot date approach for capturing the subscribers enrolled in NLAD on the first of the month that are eligible to be claimed for that month. The Commission declines to permit partial month, pro-rated reimbursement at this time.

88. The Commission requires that, when applying the affordable connectivity benefit to a Lifeline service, providers first apply the full Federal Lifeline subsidy and then the Federal affordable connectivity benefit. States may offer their own Lifeline and/or other broadband affordability benefits, and the Commission will defer to any State on how that additional benefit should be applied in conjunction with the Federal affordable connectivity benefit.

89. To ensure that providers have sufficient time to submit certified reimbursement claims and USAC can administer the program efficiently, providers are allowed six months from the uniform snapshot date, or the following business day in the event six months falls on a weekend or holiday, to submit to USAC their certified reimbursement claims for both service and connected device support for households captured on the snapshot report.

90. Providers may submit upward revisions to their certified claims within the same six-month time period after the snapshot date that certified reimbursement claims are due. Providers must disclose non-compliant conduct and return improperly received funds from this Program to the Commission and can submit downward revisions beyond the six-month time period. Moreover, providers cannot delay contacting USAC about the need to repay improperly received funds or downwardly revise their claims if they become aware of an improper payment.

91. The Commission delegates to the Bureau and OMD the authority to establish a different timeline to submit certified reimbursement claims and revisions to such claims as a result of projections and forecasts of when the Affordable Connectivity Fund is winding down or to the extent necessary to comply with government-wide Federal financial statutes and/or U.S. Treasury procedures. *See, e.g.,* 31 U.S.C. 3528; *see also* 47 CFR 0.11(a)(3)–(4), (a)(8) (scope of OMD's delegated authority); 47 CFR 0.5(e) (requiring Bureau and Office coordination with the Office of the Managing Director on recommendations ''that may affect agency compliance with Federal financial management requirements'').

92. *Tribal Lands Benefit.* The Affordable Connectivity Program retains the enhanced, $75.00 per month subsidy for eligible households located on Tribal lands. The Commission uses the same definition of Tribal lands as used in the Lifeline and EBB Programs, including certain lands near the Navajo Nation treated as Tribal lands. Existing USAC processes will be used to verify eligibility of households on Tribal lands. The definition of Tribal lands from Lifeline includes any land designated as such pursuant to the designation process in 47 CFR 54.412.

93. The Infrastructure Act provides for a separate enhanced benefit for households that are served by providers in high-cost areas. 47 U.S.C. 1752(a)(7)(B). The Commission seeks comment on the implementation of this enhanced benefit in the Further Notice of Proposed Rulemaking.

94. *Certification Requirements.* The Infrastructure Act requires providers to certify that each household for which the provider is seeking reimbursements will not be charged an early termination fee if it later terminates a contract, that each household was not subject to a mandatory waiting period, and that each household will be subject to a participating provider's generally applicable terms and conditions. Providers are also required to certify that each household for which the provider is claiming reimbursement for a connected device discount has been charged the required co-pay. Providers claiming a household whose eligibility was determined by the provider's alternative verification process must also certify that such households were verified by a process that was designed to avoid waste, fraud and abuse. The Commission requires that these certifications accompany each request for reimbursement by participating providers, that each certification be submitted under penalty of perjury, and that the provider it has not charged and will not charge the household for the amount the provider is seeking for reimbursement. The Commission directs USAC to make any adjustments necessary to the LCS to ensure that providers are prompted to certify the statements included in 47 U.S.C. 1752(b)(6).

2. Reimbursement for Connected Devices

95. A provider may not receive reimbursement for more than one

connected device per household, 47 U.S.C. 1752(b)(5), and a household that received a connected device through the EBB Program may not receive another through the Affordable Connectivity Program.

96. A market value-based approach will be used for reimbursement of connected devices, with the enhanced accountability requirements discussed following. Under the market-based approach, providers may be reimbursed up to the statutory $100 limit, provided that the amount of reimbursement together with the co-pay does not exceed the market value of the connected device. 47 U.S.C. 1752(b)(5). Providers that seek device reimbursement through the Affordability Connectivity Program will be required to submit device characteristics as well as characteristics and retail price information about analogous devices. The price information from at least one of these analogous devices must be available from a major retailer, such as Amazon, Apple, B&H, BJ's, Barnes and Noble, Best Buy, Lenovo, Micro Center (Micro Electronics), Microsoft, Newegg, Office Depot, Office Max, Sam's Club, Samsung, Staples, Target, TigerDirect, and Walmart (not including third-party sellers on any of these retailers' websites). If a provider is unable to submit such information about comparable products, it will be required to substantiate its claim for the market value.

97. Providers seeking to claim reimbursement for connected device discounts must submit information regarding the device supplied to the household prior to claiming reimbursement for a connected device. The provider must submit information to USAC about device type, device make, device model, device characteristics (*e.g.,* screen size, storage, memory), subscriber ID of the household that received the device, date the device was delivered to the household, method used to provide the device (shipped, in store, or installed by provider), market value of the device, amount paid by the household to the provider for the device, and supporting documentation. The Commission also directs USAC to adjust the reimbursement amount for any connected device claim if the market value asserted by the provider does not reflect market value as compared to analogous devices offered by other participating providers or publicly available information.

98. Providers seeking reimbursement for a connected device must certify, under penalty of perjury, that the reimbursement claim for the connected device plus the co-pay amount collected from the customer does not exceed the device's market value. In addition, providers are required to retain any materials that document compliance with these requirements and demonstrate the accuracy of the information provided to USAC and make them available for inspection upon request.

99. Participating providers must actually charge the household a co-payment of more than $10 but less than $50 before they can receive reimbursement of up to $100 for a connected device. Providers are required to retain documentation proving that the eligible household made a compliant financial contribution towards the cost of the connected device, as well as the amount thereof, before the provider seeks reimbursement. Providers must update their election notices to include information on device type, device make, device model, and wholesale cost of the device. Proof of consumer payment of the appropriate co-pay amount must be provided upon request by USAC, the Bureau, the Enforcement Bureau (EB), or any other program auditor or investigator.

100. A provider may seek reimbursement for a connected device provided to a household that had been receiving an ACP-supported service from that provider at the time the device was supplied to the household, even if the household subsequently transfers its ACP service benefit to a different provider. The Commission directs USAC to maintain the connected device dispute process implemented for the EBB Program.

E. Consumer Protection

1. Credit Check Prohibition

101. The Infrastructure Act prohibits providers from ''requir[ing] the eligible household to submit to a credit check in order to apply the affordable connectivity benefit.'' 47 U.S.C. 1752(b)(7)(A)(ii). The Commission finds that this provision bars providers from considering the results of a credit check before deciding to enroll a household in the Affordable Connectivity Program, but it does not prohibit a provider from running credit checks that are routinely used as part of the provider's sign-up process for all consumers. Providers may not use credit check results to determine to which ACP-supported internet service plan an eligible household can apply their affordable connectivity benefit, to restrict the type of plans available to a household, or to decline to transfer a currently enrolled household's affordable connectivity benefit.

102. The Infrastructure Act does not prevent providers from running a credit check or from using the results of the credit check in other circumstances unrelated to the affordable connectivity benefit. The credit check provision does not prohibit providers from relying on the results of a credit check for an ACP-eligible household to determine the devices and equipment not supported by the Affordable Connectivity Program that may be offered to the household. The statute does not prohibit providers from using credit checks to determine a household's eligibility to access bundled services so long as the credit check is used to determine eligibility to receive the service that is not eligible for the affordable connectivity benefit and the household can receive the broadband component of the bundle on a standalone basis regardless of the results of the credit check. Finally, the Infrastructure Act's credit check provision should not be interpreted as preventing providers from running a credit check consistent with the requirements of the Federal Trade Commission's ''Red Flag Laws.''

2. Non-Payment

103. The Infrastructure Act specifies that ''a participating provider [may] terminat[e] the provision of broadband internet access service to a subscriber after 90 days of nonpayment.'' 47 U.S.C. 1752(b)(7)(A)(ii). The 90 consecutive days of non-payment commences on the due date of the bill where payments made after that point for ACP-supported services would be past due. A bill is not considered ''unpaid''—and thus, there is no ''nonpayment''—until after the payment due date specified on the bill has passed and the subscriber has failed to satisfy the obligation to pay the bill in a timely manner. Accordingly, for purposes of 47 U.S.C. 1752(b)(7)(B), the 90-day period of ''nonpayment'' begins on the due date specified on the bill when the bill may be deemed ''unpaid'' and late fees may begin to accrue. This provision does not apply to prepaid plans because prepaid customers do not receive invoices and are not expected to pay at monthly intervals.

104. The Commission interprets the provision that allows providers to terminate service after 90 days of non-payment, in conjunction with the requirement that providers cannot decline to enroll an eligible household based on any ''past or present arrearages with a broadband provider,'' to mean that although a provider may terminate a household's broadband service after

90 days of non-payment, the provider cannot deny a household's re-enrollment based on past or present arrearages. When providers re-enroll ACP households whose service is terminated for non-payment, they may limit the offerings made available to the household to offerings that would be fully covered by the affordable connectivity benefit and any other applicable benefit, such as Lifeline, will protect consumers and providers by limiting the accrual of any additional ACP-related debt. Households that are downgraded from their current grandfathered or legacy plan must be permitted to return to that grandfathered or legacy plan at a later time. However, a provider may decline to return a household to a grandfathered or legacy plan if the provider would have been within its rights to remove the household from that plan irrespective of that household's participation in Affordable Connectivity Program. Limiting the plans available to a household as described here would not constitute inappropriate downselling.

105. The Commission clarifies that the termination for non-payment is limited to debts associated with any out-of-pocket expenses for the ACP-supported service, and providers should not consider any non-payment associated with non-ACP supported services, EBB-supported service, or other debt that predates the Affordable Connectivity Program.

106. Providers may downgrade a household to a lower-priced service plan once the consumer enters a delinquent status after the bill due date to mitigate the non-payment amount upon advance notice to the household of the change in service. Such a transfer of a household in non-payment status to a lower-priced service plan in order to mitigate the non-payment does not constitute inappropriate downselling.

107. A provider must take apply the affordable connectivity benefit to a household's account no later than the start of the first billing cycle after the household's enrollment. A provider must pass through the discount in order to claim reimbursement for the discount in the Affordable Connectivity Program. Providers may not, for example, charge a customer for the internet service offering, certify a claim for reimbursement, and then later provide the discount to the customer only after receiving the reimbursement. Failure to comply with these rules may result in administrative forfeitures or other penalties.

108. A provider cannot de-enroll a household for non-payment if the provider has failed to timely apply the benefit to the household's bill consistent with this Order. To track households that could be de-enrolled for non-payment associated with the ACP-supported service, as well as to support tracking households which would be subject to the non-usage rules, the Commission directs USAC to collect from providers information regarding whether a household is assessed and charged a fee for the ACP-supported service. Providers must certify, under penalty of perjury, that the affordable connectivity benefit was in fact applied to the households for which the provider is submitting a claim for reimbursement. Providers must document and retain proof that the program benefit was in fact applied to the household's account prior to the provider submitting a claim for reimbursement for that household.

109. Participating providers must give adequate notice to a household of their delinquent status before terminating the household's service for non-payment. The provider must provide the household written notice of the possible termination 60 and 30 days prior to the termination date, which must be set from the due date of the bill. The written notice must include the balance due to the provider, the due date for the outstanding balance, the last date of service if the outstanding balance is not paid, instructions for payment, and the provider's customer service phone number. Notice must also be provided in formats accessible to individuals with disabilities, and may be delivered via email, mail, billing insert or statement, or text message. Providers must retain documentation of notice sent to the household before the household is disconnected for non-payment. Households that dispute an allegation of non-payment with the provider may file a complaint with the FCC's Consumer Complaint Center.

3. Consumer Complaint Process

110. *Dedicated ACP Complaint Process.* The Infrastructure Act requires the Commission to establish a dedicated complaint process for Affordable Connectivity Program participants to file complaints about the compliance of participating providers with program rules and requirements, including complaints ''with respect to the quality of service received under the Program.'' 47 U.S.C. 1752(b)(9)(A). The Commission is adding a dedicated pathway within its existing consumer complaint process in the Consumer Complaint Center to file ACP-related complaints, including notification to providers that the complaint involves the Affordable Connectivity Program, clear direction to consumers on how to correctly file an ACP complaint, and dedicated FCC staff from Consumer and Governmental Affairs Bureau (CGB) to review and process the complaints.

111. *Provision of Information on the Dedicated ACP Complaint Process.* The Infrastructure Act also requires participating providers to provide Affordable Connectivity Program participants with information on the Commission's dedicated complaint process. 47 U.S.C. 1752(b)(9)(B). The Commission requires participating providers to prominently display the Commission's contact center phone number and the website address for the Consumer Complaint Center on the subscriber's bill and on the provider's ACP web page. The Commission also requires participating providers to inform consumers of their right to file a complaint with the Commission regarding an ACP-supported service or any difficulty enrolling with the provider. Participating providers must provide this information to ACP consumers in the formats proposed in the *ACP Public Notice. ACP Public Notice,* 86 FR at 74043, para. 87 *Reports Regarding Consumer Complaints.* The Infrastructure Act also requires the Commission to regularly issue public reports regarding consumer complaints alleging provider non-compliance with the Affordable Connectivity Program rules. 47 U.S.C. 1752(b)(9)(D). The Commission directs CGB, in coordination with the Bureau, to regularly issue public reports regarding consumer complaints alleging provider non-compliance with ACP rules, to make these reports available to the public via the FCC website, and, in coordination with the Bureau and the Senior Agency Official for Privacy, to ensure that any personally identifiable information (PII) be excluded from complaint reports and data made publicly available to ensure compliance with the Privacy Act, 5 U.S.C. 552a.

112. *Investigations and Enforcement.* The Infrastructure Act also requires the Commission to act expeditiously to investigate potential violations of program rules and requirements and enforce compliance, and it permits the Commission to impose forfeiture penalties to enforce compliance. 47 U.S.C. 1752(b)(9)(C)(i)–(ii). The Commission will use its existing, statutorily permitted enforcement powers to initiate investigations of program rule violations and directs EB, in coordination with the Bureau and law enforcement as applicable, to expeditiously investigate potential violations of and enforce the ACP rules.

4. Additional Consumer Protections

a. Administrative Procedure

113. The Infrastructure Act directs the Commission to promulgate certain specific consumer protection rules ''after providing notice and opportunity for comment in accordance with [5 U.S.C.] 553,'' which sets forth the rulemaking requirements of the Administrative Procedure Act (APA). 47 U.S.C. 1752(b)(11)(A). At the same time, 47 U.S.C. 1752(h) provides an exemption from APA requirements for ''regulation[s] promulgated under subsection (c),''and 47 U.S.C. 1752(c) requires that the Commission ''promulgate regulations to implement'' these requirements by a date ''not later than 60 days after enactment of this Act'' and specifies initial comment and reply comment periods of 20 days each.

114. The Commission believes that there is no irreconcilable conflict between these provisions and that, read together, they support the adoption of the 47 U.S.C. 1752(b)(11) consumer protection rules here. By referring to the APA specifically in 47 U.S.C. 1752(b)(11), Congress intended to emphasize that the Commission should carefully consider the input of commenters in crafting the consumer protection rules. Given the tight, statutorily mandated timeframe for standing up the Affordable Connectivity Program and the essentiality of consumer protection rules to the proper functioning of the program, the Commission finds that the notice and comment process the Commission has provided, in accordance with 47 U.S.C. 1752(c), is sufficient to satisfy the APA requirements in 5 U.S.C. 553(b). The *ACP Public Notice* was published in the **Federal Register** on December 29, 2021 (*see* 86 FR 74036) and it contains the information specified in section 553(b)(1)–(3), including detailed questions about the particular inappropriate practices referenced in 47 U.S.C. 1752(b)(11). Given the requirements in the Act to commence the rulemaking implementing the Affordable Connectivity Program within five days of the enactment of the Act and to adopt program rules within 60 days, and the inextricable relationship between the consumer protection rules and the other components of the program, the Commission finds that it has satisfied the notice requirement in 5 U.S.C. 553(b), as well as the requirements in 5 U.S.C. 553(c) to ''give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments'' and to ''consider[ ] the relevant matter presented'' in those submissions when formulating the consumer protection rules.

115. Moreover, in the alternative, to the extent the procedures required by 47 U.S.C. 1752(c) cannot be squared with the process required by 47 U.S.C. 1752(b)(11), the Commission finds ''good cause'' to depart from the standard APA notice and comment procedures because placing the consumer protection rules on a delayed track would be ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). It would be impracticable and contrary to the public interest to adopt consumer protection rules using procedures that would operate more slowly than those the Commission use to adopt the rules implementing other aspects of the Affordable Connectivity Program. The consumer protection rules are among the core components of the program, and allowing the rest of the program to take effect without having the statutorily-mandated consumer protections in place at the outset of the program would undermine the overall scheme. The Affordable Connectivity Program will enable eligible consumers to apply the Affordable Connectivity Benefit to ''any'' internet service offering of a participating provider, 47 U.S.C. 1752(b)(7), and consumers could effectively be denied that entitlement if participating providers were allowed to engage in harmful business practices that could trap consumers in poor service and deny households of the full benefit and freedom to choose an appropriate service. *See* 47 U.S.C. 1752(b)(11)(A). Consistent with this determination, the Commission also finds under the Congressional Review Act that there is good cause to expedite the effective date of these rules and not to delay their effective date for 60 days pending Congressional review. *See* 5 U.S.C. 808(2).

b. Consumer Protection Requirements Pursuant to 47 U.S.C. 1752(b)(11)

116. *Upselling and Downselling.* The Infrastructure Act requires the Commission to promulgate rules prohibiting any inappropriate upselling or downselling by a participating provider. 47 U.S.C. 1752(b)(11)(A)(i). Inappropriate upselling in the context of the Affordable Connectivity Program is any business practice that pressures a prospective or existing subscriber to purchase a service plan or bundled plan in addition to or that is more expensive than what the subscriber initially sought. For example, requiring a household to select or switch to a higher-cost service plan with their existing provider before the provider will enroll the household or before the provider will apply the affordable connectivity benefit to the household's account constitutes inappropriate upselling and is prohibited. Similarly, if a provider offers a particular broadband service offering either as part of a bundled plan with other services or on a stand-alone basis, the provider may not require an eligible household to purchase the bundled plan or any other services included in the bundle as a mandatory condition in order to select that broadband internet access service plan for purchase or application of the affordable connectivity benefit. Nor may the provider exert pressure on the household to purchase the bundled plan or the other services included in such a plan, rather than the individual broadband internet access service on a stand-alone basis. And even if a particular type of modem, router, or other associated equipment is technically necessary in order to use a specific type of broadband internet access service, a participating provider may not compel or pressure an eligible household to purchase or rent such equipment from the provider in conjunction with selecting (or applying the benefit to) that type of service if the needed equipment is also available from other vendors and the household could opt to obtain it from someone other than the provider.

117. However, communicating information regarding higher-speed or higher-priced service tiers is not in itself prohibited upselling in the absence of further evidence. In fact, given the monthly subsidy available in the program, a fully informed consumer may choose to subscribe to a more expensive plan that better meets the needs of the household. To ensure that consumers are sufficiently informed of the available options, the Commission requires providers to inform prospective and current subscribers seeking to enroll in the Affordable Connectivity Program or seeking to change service plans of all ACP-supported plans available in the household's service area that are fully covered by the affordable connectivity benefit. Such plan information is required to be presented along with the required disclosures a provider must present to households prior to enrollment, described further following. The creation or promotion of new service plans specially priced for eligible households in the Affordable Connectivity Program does not constitute inappropriate upselling.

118. Inappropriate downselling in the context of the Affordable Connectivity Program is any business practice that pressures a subscriber to lower the

quality of broadband service (such as reducing bandwidth or speed, or adding or lowering data caps that would not meet the participating household's needs) to the benefit of the provider rather than the consumer. Not all downselling should be prohibited: Merely suggesting or mentioning the availability of a lower-price service plan(s) that would satisfy consumers' broadband needs is permitted. However, certain practices may constitute inappropriate downselling and should be prohibited to avoid potential consumer harm. Specifically, the Commission prohibits a provider from requiring a prospective or current household to change to a lower-cost service plan or to choose from a set of specific low-cost service plans before permitting the household to enroll in the program or before applying the affordable connectivity benefit to the household's account. Inappropriate downselling also includes business practices that aim to benefit the provider (such as minimizing the provider's out-of-pocket expenses) with no actual benefit to the consumer. For example, suggesting only low-quality service plans with a low data cap or low speed simply to benefit the provider and without regard to consumer need would be prohibited inappropriate downselling.

119. *Extended Service Contracts.* The Infrastructure Act requires that the Commission promulgate rules that would protect ACP consumers from any inappropriate requirements that a consumer opt-in to an extended service contract as a condition of participating in the Affordable Connectivity Program. 47 U.S.C. 1752(b)(11)(A)(i). While not all extended service contracts are prohibited in the Affordable Connectivity Program, providers are prohibited from requiring agreement to an extended service plan as a condition of receiving the affordable connectivity benefit. An extended service contract is typically an offer of service at a discount price in exchange for a commitment from the subscriber to remain on that service plan for a set period of time, usually at least a year. Typically, a breach of an extended service contract would result in early termination fees. Congress recognized that consumers should be able to apply the ACP benefit to any available service plan and some participating providers offer plans with extended service contracts. However, conditioning a household's enrollment in the Affordable Connectivity Program or application of the program benefit to the household's account on agreement to an extended contract or continuing service with the provider is prohibited. Where an ACP household elects an extended service contract, the Commission requires the provider to notify the household that it may change its service at any time without incurring an early termination fee, as such fees are prohibited by the Infrastructure Act. 47 U.S.C. 1752(b)(6)(A)(i). In addition, providers must disclose all material terms to ACP households prior to enrollment, including but not limited to the price of service and the conditions for breach.

120. *Restrictions on Switching Service Offerings.* The Infrastructure Act requires the Commission to promulgate rules to protect consumers from inappropriate restrictions imposed by a participating provider on the consumer's ability to switch internet service offerings. 47 U.S.C. 1752(b)(11)(A)(iv). The Commission prohibits providers from imposing restrictions on switching internet service offerings. However, it is not inappropriate for a provider to limit a household that is in non-payment status to service plans covered by the full benefit amount, as discussed preceding.

121. *Restrictions on Switching Providers.* The Infrastructure Act also requires the Commission to promulgate rules to protect consumers from any inappropriate restrictions by a participating provider on the ability of the household to switch participating providers other than a requirement that the household return customer premises equipment provided by the participating provider. 47 U.S.C. 1752(b)(6)(A)(i)–(iii). The Commission prohibits any provider practice that is reasonably likely to cause a household to believe that they are prohibited or restricted from transferring their benefit to a different provider. Examples include, but are not limited to: Misrepresenting or failing to accurately disclose to a household the rules and requirements regarding transfers in the Affordable Connectivity Program as set out further following; charging a fee to the household for transferring their benefit to another provider; or suggesting that the provider may change the consumer's service plan if they transfer their benefit to another provider.

122. The Commission declines at this time to prohibit providers from recouping any forgone reimbursements as a result of the consumer transferring to another provider before the snapshot date for that service month, but cautions that providers must not impose or threaten to impose any fees or penalties to discourage or disincentivize a consumer from transferring their ACP benefit. The Commission finds that limiting subscribers to one transfer a month, coupled with the strengthening of the consent and disclosure requirements related to transfers, should reduce the number of unwanted transfers and will empower consumers to make an informed decision about whether to transfer their benefit. Therefore, the Commission finds that at this time, preventing providers from recovering discounts that are unable to be claimed solely as a result of the transfer is unnecessary to protect consumers from the consequences of the transfer.

123. *Unjust and Unreasonable Practices.* The Infrastructure Act requires the Commission to promulgate rules related to unjust and unreasonable acts or practices that would undermine the purpose, intent, or integrity of the Affordable Connectivity Program. 47 U.S.C. 1752(b)(11)(A)(v). To protect ACP households against service provider activities that would undermine the purposes, intent or integrity of the Affordable Connectivity Program, the Commission requires providers to enroll an eligible household as soon as practicable once the provider receives the household's affirmative consent to enroll with that provider for the Affordable Connectivity Program. Providers are further required to apply the affordable connectivity benefit to the household's account promptly.

124. A provider is prohibited from advertising or holding itself out as a participating provider if it is not in fact permitted to participate in the Program. The Commission also prohibits providers from engaging in false or misleading advertising of the Affordable Connectivity Program. Failure to timely provide the service, equipment, or devices that are advertised, promoted, or marketed is an unjust and unreasonable practice and is a violation of the Affordable Connectivity Program rules. Providers must deliver any connected devices under the program within 30 days of affirmative consent to receive the device from the household.

5. Disclosures and Consumer Consent

125. *General Disclosure Requirements.* The Commission finds that requiring certain disclosures prior to enrolling consumers in the Affordable Connectivity Program is necessary to ensure that eligible consumers are fully informed of their rights and the terms and conditions for their service before enrollment in the Affordable Connectivity Program. The disclosure requirements the Commission adopts for the Affordable Connectivity Program must be satisfied before participating providers enroll an eligible consumer in

the NLAD, and they apply regardless of whether the eligible consumer currently receives service from the provider (such as an existing Lifeline service) or will begin receiving service after enrollment, or after service provider transfer, in the Affordable Connectivity Program.

126. The required disclosures can be provided orally or in writing, and must convey the following information in clear, easily understood terms that: (1) The Affordable Connectivity Program is a government program that reduces the customer's broadband internet access service bill; (2) the household may obtain ACP-supported broadband service from any participating provider of its choosing; (3) the household may apply the ACP benefit to any broadband service offering of the participating provider at the same terms available to households that are not eligible for ACP-supported service; (4) the provider may disconnect the household's ACP-supported service after 90 consecutive days of non-payment; (5) the household will be subject to the provider's undiscounted rates and general terms and conditions if the program ends, if the consumer transfers their benefit to another provider but continues to receive service from the current provider, or upon de-enrollment from the Affordable Connectivity Program; and (6) the household may file a complaint against its provider via the Commission's Consumer Complaint Center. If the provider offers a connected device through the Affordable Connectivity Program, the disclosures must also include language stating that the household does not need to accept the device in order to enroll in the program. Providers must also inform consumers about the provider's ACP-supported service plans that are fully covered by the applicable affordable connectivity benefit amount to guard against inappropriate upselling. Providers must retain all documentation or recordings of written or oral disclosures made to consumers in connection with ACP enrollment, as well as any other oral or written notifications and consumer disclosures required by the ACP rules consistent with the ACP recordkeeping requirements, and make them available for inspection upon request. Standardized language for the required consumer disclosures would ensure that all providers share the same language with eligible consumers prior to enrollment. Accordingly, the Commission directs the Bureau, in coordination with EB and CGB, to adopt a standard disclosure statement that all providers will be required to use.

127. *Consumer Consent to Enroll in the Affordable Connectivity Program.* Before enrolling a consumer in the Affordable Connectivity Program, participating providers must obtain affirmative consumer consent either orally or in writing that acknowledges that after having reviewed the required disclosures about the Affordable Connectivity Program, the household consents to enroll with the provider. As with the required disclosures, the Commission finds that having uniform text for these consents would ensure that consumers actually affirmatively consented to enroll in the Program. The Commission directs the Bureau, in coordination with EB and CGB, to adopt a standard consent statement that providers will also be required to use in conjunction with the disclosures before enrolling eligible consumers in the Affordable Connectivity Program. Providers must retain all documentation or recordings of written or oral notifications and consumer consents and make them available for inspection upon request.

128. The practices of linking program enrollment to implementation of technical changes necessary to retain the subscriber's existing service or automatically enrolling subscribers that provided information needed for another purpose may be deceptive and would have a deleterious effect on the integrity of the Affordable Connectivity Program. Accordingly, the Commission prohibits participating providers from linking enrollment in the Affordable Connectivity Program to some other action or information supplied to the provider for purposes other than the Affordable Connectivity Program. As examples, providers are prohibited from: (1) Not clearly distinguishing the process of signing up for ACP-supported services and devices from the process of signing up for, renewing, upgrading, or modifying other services, including Lifeline-supported services; (2) suggesting or implying that signing up for ACP-supported services and devices is required for obtaining or continuing other services, including Lifeline-supported services; and (3) tying the submission of customer information provided for another purpose (*e.g.,* address verification or equipment upgrade or replacement) to enrollment in the Affordable Connectivity Program.

129. The Commission also finds that requiring a consumer to accept a connected device in order to enroll with the provider is deceptive and harmful to consumers. Accordingly, the Commission prohibits participating providers from requiring consumers to obtain an ACP-supported device in order to enroll in the Affordable Connectivity Program.

130. *Timing Limitation on Consumer Disclosure and Consents for Providers with Pending Election Notices or Removal.* Providers are required to have a fully processed election notice before beginning to provide disclosures and collecting consumer consent for enrollment in the Affordable Connectivity Program. If a provider is removed from the program, it must cease providing the required enrollment-based consumer disclosures and consents for the Affordable Connectivity Program immediately upon removal. EBB Program providers that transitioned to the Affordable Connectivity Program do not need to submit an ACP election notice in order to make the required consumer disclosures and collect consumer consent for enrollment in the Affordable Connectivity Program.

131. *Transfer-Specific Disclosure and Consent Requirements.* The Commission adopts consent and disclosure requirements for households that seek to transfer their ACP benefit to another service provider. Before initiating a transfer in NLAD, the transfer-in provider must disclose orally or in writing, in clear, easily understood language to the ACP household: (1) That the household will be transferring its ACP benefit to the transfer-in provider; (2) that the effect of the transfer is that the ACP benefit will be applied to the transfer-in provider's service and will no longer be applied to service retained from the transfer-out provider; (3) that the household may be subject to the transfer-out provider's undiscounted rates as a result of the transfer if the household elects to maintain service from the transfer-out provider, and that (4) the household is limited to one ACP-transfer transaction per service month with limited exceptions to reverse an improper transfer or address situations impacting the household's receipt of ACP-supported service from a particular provider.

132. The Commission finds that having a clear record of a consumer's consent to transfer their ACP benefit after having reviewed the ACP transfer disclosures is an important tool for preventing uninformed or unwanted ACP benefit transfers. The transfer-in provider must obtain the required consumer consent orally or in writing before each ACP transfer transaction, and the consent must indicate that after having reviewed the required transfer disclosures, the household consents to transfer its benefit to the transfer-in provider. Documentation of the consumer's affirmative consent must

clearly identify the ACP subscriber name, acknowledge the subscriber was provided the required disclosure language, and that upon receiving the disclosure, the subscriber gave its informed consent to transfer its benefit, and the date consent was given. Participating providers must retain documentation or recordings related to the required disclosures and necessary consents for affordable connectivity benefit transfers.

133. Participating providers must obtain consent from an ACP household for each transfer and may not rely on older consent given for a previous transfer. Each time a provider initiates a transfer-in transaction for an ACP household, it must first provide the household with the required disclosures and obtain consent from the household acknowledging receipt of the disclosures and stating that the household consents to the transfer, even if the household previously received EBB or ACP-supported service from the provider. Consistent with the consents and disclosures required at initial ACP-enrollment, the Commission finds that using standardized language for ACP transfer disclosures and consent will better ensure that households are properly informed about and consented to transfer their ACP benefit. Therefore, the Commission directs the Bureau, in coordination with EB and CGB, to provide standardized disclosure and consent language that the providers will be required to present to ACP households prior to initiating the transfer.

134. Providers are required to provide written notice of transfer-in transactions to the transferred ACP household within five business days of completing the transfer in the NLAD. The notice of transfer to the ACP household should indicate the name of the transfer-in provider to which the household's ACP benefit was transferred, the date the transfer was initiated, and an explanation of the dispute process if the household believes the transfer was improper. Providers must retain documentation demonstrating compliance with this notice requirement consistent with the document retention requirements adopted in the Order and make such documentation available to the Commission and USAC upon request. The transfer-in service provider is required to certify under penalty of perjury that it has complied with the transfer requirements the Commission adopts in the Order.

135. *Limiting the Number of ACP Consumer Transfers in a Service Month.* To provide an additional safeguard against unwanted and uninformed benefit transfers, the Commission limits ACP household benefit transfers to one per service month, with limited exceptions. The Commission directs USAC, in coordination with the Bureau, to develop a process for seeking an exception from the one-per-service month transfer restriction in the following circumstances: (1) An improper transfer; (2) the household's service provider ceases operations or fails to provide service (3) the household's current service provider is found to be in violation of ACP rules, and the violation impacts the customer for which exception is sought; or (4) the household changes its residential address to a location outside of the provider's service area for the Affordable Connectivity Program. An improper transfer occurs if the transfer-in provider does not make the required disclosures or obtain the required consent from the household to proceed with the transfer transaction. These exceptions ensure that unwanted transfers can be reversed, and also recognize that circumstances beyond the household's control may impact the provision or receipt of ACP service from a specific provider warranting more than one transfer in a month. The Commission further directs USAC to monitor exceptions and conduct program integrity reviews for a sampling of benefit transfers.

F. Outreach, Cross-Agency Collaboration, Advertising, and Public Awareness

136. For the Affordable Connectivity Program to achieve its full potential and reach as many eligible households as possible, households must be clearly informed of the program's existence, benefits, eligibility qualifications, and how to apply. The Infrastructure Act recognizes that the Commission, participating providers, other Federal agencies, State, local, and Tribal governments, and other program partners and stakeholders play an important role in disseminating information about the Affordable Connectivity Program to the intended population. The Infrastructure Act outlines specific requirements and permissible activities for consumer outreach that may be funded using Affordable Connectivity Program funding. 47 U.S.C. 1752(b)(10). The Commission recognizes the Program will benefit from broad outreach in a variety of languages and methods to reach as many eligible consumers as possible, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality through collaborative outreach on the part of the Federal Government, participating providers, State, local, and Tribal governments, and other program partners and stakeholders.

1. Commission Outreach Efforts and Cross-Agency Collaboration

137. *Commission Outreach Efforts.* The Infrastructure Act provides that the Commission may conduct outreach efforts to encourage households to enroll in the Affordable Connectivity Program. In particular, the Act permits the Commission to facilitate consumer research, conduct focus groups, engage in paid media campaigns, provide grants to outreach partners, and provide an orderly transition for participating providers and consumers from the EBB Program to the Affordable Connectivity Program. 47 U.S.C. 1752(b)(10)(C)(i)–(ii).

138. The Commission believes a wide range of outreach is needed to best promote awareness of and increase participation in the Affordable Connectivity Program. The Commission is committed to using a variety of outreach tools in the immediate term and for the duration of the program to encourage eligible households to enroll in the Affordable Connectivity Program as permitted under the statute. 47 U.S.C. 1752(b)(10)(C)(i). In addition, in the Further Notice of Proposed Rulemaking, the Commission is exploring the possibility of establishing an outreach grant program, but that would take time to establish in compliance with the applicable Federal rules and regulations governing Federal grants. Based on the costs associated with the Commission's Digital Television Transition outreach efforts (which included broad paid media campaigns) and current estimates for the anticipated types of outreach activities the Commission may undertake pursuant to the Infrastructure Act, the Commission anticipates the need to spend no more than $100,000,000 over the next five years for outreach, including, but not limited to, immediate outreach activities and a potential outreach grant program. As such, the Commission permits the Bureau to spend up to, but not more than, $100,000,000 over the next five years for such activities.

139. The Commission directs the Bureau, CGB, the Office of Communications Business Opportunities (OCBO), OMD, and the Office of Media Relations (OMR) to collaborate on identifying and conducting the Commission's paid

outreach efforts to promote program awareness and encourage households to enroll in the Affordable Connectivity Program, using the broad range of outreach tools permitted under the statute. These efforts will complement and build on the extensive outreach undertaken in support of the EBB Program and may include both national and more targeted activities, with particular emphasis on reaching people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically unserved, marginalized, or adversely affected by persistent poverty or inequality. This outreach should also focus on helping households that are unconnected due to affordability issues and are not currently enrolled in a low-income connectivity program with awareness and enrollment in the program.

140. Staff may work with USAC and third-party entities to conduct consumer research and focus groups. Consumer research and focus groups may provide meaningful insights into program messaging, including translations, application and enrollment process improvements, program awareness, perceived program value, and other topics that may improve awareness of the program and barriers to participation that could be addressed through outreach, and help drive enrollment. The Bureau, in consultation with CGB and OMR, with support from OMD as needed, may also pursue a paid media strategy for the Affordable Connectivity Program. In addition to traditional media and online ads, a paid media strategy may also include paid media in diverse outlets that serve culturally and linguistically isolated communities for which a significant population may qualify for the Affordable Connectivity Program. Such a media strategy may include a mix of national, regional, and hyper-local campaigns designed to reach the intended populations. The Bureau and CGB, with support from OMD as needed, may rely on a third-party media strategy firm to develop a media plan and facilitate paid advertising campaigns.

141. *Commission Collaboration with Other Federal Agencies.* Pursuant to the Infrastructure Act, the Commission must collaborate with relevant Federal agencies to ensure that households that participate in qualifying programs for the Affordable Connectivity Program are provided with information about the Affordable Connectivity Program, including enrollment information. 47 U.S.C. 1752(b)(10)(B). The Commission directs the Bureau in conjunction with CGB to collaborate with other relevant Federal agencies on efforts designed to ensure that households participating in the relevant qualifying programs are provided with information on the Affordable Connectivity Program, including enrollment information. The Commission directs the Bureau and CGB to identify and engage in specific activities that would best satisfy this collaboration requirement, such as developing co-branded awareness campaign materials and email communications about the Affordable Connectivity Program to households participating in qualifying benefit programs.

142. *System of Records Notices Updates.* The Infrastructure Act also requires the Commission to ''collaborate with relevant Federal agencies, including to ensure relevant Federal agencies update their System of Records Notices, to ensure that a household that participates in any program that qualifies the household for the Affordable Connectivity Program is provided information about the program, including how to enroll in the program.'' 47 U.S.C. 1752(b)(10)(B). The Commission does not have the authority to compel other Federal agencies to update their Systems of Records Notices, but the statute permits it to collaborate with other agencies. Accordingly, the Commission directs the Bureau, the Office of General Counsel, and OMD to collaborate with relevant Federal agencies to ensure that households participating in relevant qualifying programs are provided information about the Affordable Connectivity Program, which will include encouraging other Federal agencies to update their System of Records Notices to permit information sharing related to the Affordable Connectivity Program.

2. Publication and Outreach Requirements for Participating Providers

143. *Notification to All internet Service Consumers Upon Subscription or Renewal.* The Infrastructure Act requires participating providers to notify all consumers who either subscribe to or renew a subscription to an internet service offering about the Affordable Connectivity Program and how to enroll. 47 U.S.C. 1752(b)(10)(A). The Commission concludes that the term ''renew'' in the relevant section of the Infrastructure Act means extending a fixed-term service contract longer than one month. The requirement to notify consumers who ''renew'' a subscription should be limited to consumers extending a plan that is offered for a fixed term longer than one month and should not apply to consumers on month-to-month contracts. Service providers are also required to provide notice about the Affordable Connectivity Program to consumers who subscribe to month-to-month internet service at the time the consumer first subscribes to the service and annually thereafter.

144. Participating providers must notify in writing or orally, in a manner that is accessible to individuals with disabilities, all consumers who either subscribe to or renew a subscription to an internet service offering about the Affordable Connectivity Program and how to enroll: (1) During enrollment for new subscribers; (2) at least 30 days before the date of renewal for subscribers not enrolled in the Affordable Connectivity Program who have fixed term plans longer than one month; and (3) annually for subscribers not already enrolled in the Affordable Connectivity Program who have month-to-month or similar non-fixed term plans. The requirement to notify new subscribers during enrollment also applies to existing subscribers contacting their provider to change service plans.

145. The Commission declines to apply the notice requirement only at the time of initial service enrollment for prepaid customers who typically pay for service on a month-to-month basis. Providers must inform prepaid customers about the Affordable Connectivity Program annually to ensure that these consumers remain aware of the Affordable Connectivity Program. Publicly available information (*e.g.,* websites or signage) alone is not sufficient to meet this notification requirement without some form of written or oral communication targeted to the individual subscriber, including but not limited to billing notifications or other emailed or mailed notifications. Providers should also offer these consumer notices in customers' preferred language.

146. The required consumer notice must use clear, easily understood language. At a minimum, the notice must indicate: (1) The eligibility requirements for consumer participation; (2) that the Affordable Connectivity Program is non-transferrable and limited to one monthly internet discount and a one-time connected device discount (only if the provider offers ACP discounted devices) per household; (3) how to enroll, such as a customer service phone number or relevant website information; and (4) that the Affordable Connectivity Program is a Federal Government

benefit program operated by the Federal Communications Commission and, if it ends, or when a household is no longer eligible, customers will be subject to the provider's regular rates, terms, and conditions.

147. *Advertising Requirement.* Due to the importance of disseminating information about the Affordable Connectivity Program, the Commission requires participating providers to publicize the availability of the Affordable Connectivity Program in a manner reasonably designed to reach those consumers likely to qualify and in a manner that is accessible to individuals with disabilities. Service providers should utilize outreach materials and methods designed to reach eligible households that do not currently receive service. *Cf.* 47 CFR 54.405(b) (similar requirements in context of Lifeline program).

148. *Public Awareness Campaigns.* Finally, the Infrastructure Act requires participating providers, in collaboration with State agencies, public interest groups, and non-profit organizations, to carry out public awareness campaigns in their areas of service that highlight the value and benefits of broadband internet access service, and the existence of the Affordable Connectivity Program. 47 U.S.C. 1752(b)(8). Local social services agencies, schools, and other organizations that administer qualifying government assistance programs are also important program partners and stakeholders for the Affordable Connectivity Program; accordingly, service provider public awareness activities in collaboration with these entities would also satisfy the service provider public awareness obligation. The Commission gives participating providers flexibility as to how they fulfill this requirement and does not prescribe specific forms of outreach that service providers must use to satisfy the public awareness obligation, a fixed number of activities that service providers must complete, or a requirement that service providers collaborate with specific organizations. However, participating service providers must frequently engage in public awareness activities focused on participation in the Affordable Connectivity Program and in collaboration with the specified types of organizations, and must retain documentation sufficient to demonstrate their compliance with the public awareness obligations.

3. Commission Guidance

149. The Infrastructure Act provides that the Commission may issue guidance, forms, instructions, publications, or technical assistance as necessary or appropriate to carry out the Affordable Connectivity Program, including actions intended to ensure that ''programs, projects, or activities'' are completed in a timely and effective manner. The Commission directs the Commission staff and USAC to develop comprehensive provider education and training programs, as well as consumer outreach plans. The Commission also directs USAC to develop and implement, under the oversight of the Bureau, CGB, and OCBO, training and provide information necessary to successfully participate in the Affordable Connectivity Program. The Commission directs USAC both to educate service providers on the ACP and to engage in consumer outreach to complement the efforts Commission staff will undertake in response to this Order. The Commission also directs CGB, including the Office of Native Affairs and Policy, and OCBO to coordinate with USAC to develop educational and informational communications and materials to advertise the Affordable Connectivity Program, such as a web page and digital toolkit in a printable format and translated into other languages that can easily be accessed by service providers, organizations, and the public.

G. Data Reporting and Performance Goals

1. Tracking and Reporting of Available Funding

150. In the *EBB Program Order,* the Commission instructed USAC to develop a tracker that reports on disbursements and program enrollment to allow providers and the public to monitor the balance of the Emergency Broadband Connectivity Fund. *Emergency Broadband Benefit Program,* Final Rule, 86 FR 19532, 19552–53, paras. 105–108 (Apr. 13, 2021). Consistent with the Commission's approach in the EBB Program, the Commission finds that publishing enrollment data for the Affordable Connectivity Program will empower the Commission's outreach partners and promote transparency about the program. Therefore, the Commission directs USAC, subject to oversight of the OEA and the Bureau, to develop a tracker and make it available on either the Bureau's website or USAC's website. In the tracker, USAC should include enrollment data including, enrollee age category, eligibility category, including households enrolled on the basis of enrollment in a provider's existing low-income program, type of broadband service, and enrollment numbers by five-digit ZIP code areas. USAC shall update the posted information regularly. The Commission directs the Bureau and OEA, with support from USAC, to develop a process to mask data as necessary, consistent with the Privacy Act, 5 U.S.C. 552a. The Commission further directs OEA and the Bureau to take into consideration the types of data requested by commenters when determining the additional program data, if any, that can be made available.

151. *Performance Measures.* Similar to the Lifeline and EBB Programs, the Affordability Connectivity Program will subsidize the internet bills of low-income households on a monthly basis; thus, the Commission plans to establish program goals consistent with those of the Lifeline and EBB Programs. The Commission establishes three goals for the Affordability Connectivity Program: (1) Reduce the digital divide for low-income consumers, (2) promote awareness and participation in the Affordable Connectivity Program and the Lifeline program, and (3) ensure efficient and effective administration of the Affordability Connectivity Program.

152. Narrowing the digital divide has been an ongoing priority for the Commission and is one of the goals for the Lifeline program. A primary goal of the Affordability Connectivity Program should be to close the digital divide by reducing the broadband affordability gap. The Commission directs the Bureau and OEA, with support from USAC, to collect as necessary appropriate data and develop metrics to determine progress towards this goal, such as broadband adoption by first-time subscribers and increasing enrollments in areas with low broadband internet penetration rates.

153. The Commission's second goal is to increase awareness of and participation in the Affordability Connectivity Program. The Commission should invest in direct, data-driven outreach to unconnected households to increase awareness of the Affordable Connectivity Program. To meet this goal, the Commission will work with community partners to increase consumer engagement with low-income individuals in underserved areas. The Commission directs USAC to continue to publish enrollment data by geographic regions. To measure progress towards this goal, the Commission will monitor the participation over time and by area. Additionally, the Commission directs the Bureau and OEA, with support from USAC, to collect the appropriate data.

154. The Commission adopts as the Commission's third goal efficient and effective administration of the

Affordability Connectivity Program. The Commission will measure success towards this goal by evaluating the speed and ease of the application process and the reimbursement process, and the overall burden of the program on consumers. To measure the first performance metric, the Commission will conduct consumer and provider outreach that will aim to capture program satisfaction. In addition, the Commission seeks feedback from the Commission's State, community, and non-profit partners helping to educate consumers on the application process. For the Commission's second performance measure, the Commission will use a measure of consumer burden that divides the total inflation-adjusted expenditures of the low-income program each year by the number of households in the United States and express the measure as a monthly dollar figure. This calculation will rely on publicly available data and will therefore be transparent and easily verifiable.

H. Transition of Legacy EBB Program Households

155. The Commission takes seriously the need to ensure that legacy EBB Program households that transition to the Affordable Connectivity Program do not have adverse experiences such as bill shock as a result of the lower $30 non-Tribal benefit under the Affordable Connectivity Program or a downgraded service offering. The Commission finds that a uniform opt-in approach for all legacy EBB households that transition to the Affordable Connectivity Program is unnecessary and would likely result in significant de-enrollments and increase administrative burdens on service providers and consumers. An across-the-board opt-out approach does not provide consumers enough agency in the decision. Instead, the Commission adopts a hybrid approach that takes into consideration the various categories of legacy EBB households, and each category's respective potential level of risk for an adverse experience.

156. There are multiple categories of legacy EBB households that would have very different experiences as a result of the reduction to the $30 non-Tribal benefit amount given their varied circumstances. Many legacy EBB Program households will not experience a rate change because their supported internet service already costs $30 or less a month or because they reside on qualifying Tribal lands and the Tribal benefit level has not changed. Other legacy EBB Program households are unlikely to face unexpected financial harm as a result of an up to $20 bill increase because they previously demonstrated to their current provider a willingness to pay something for their broadband service, such as by paying some fee for an EBB-supported internet service, being the provider's existing paying customer for internet service before enrolling in the EBB Program, or consenting to the provider's general terms and conditions if they continued to receive their current service after the end of the EBB Program. However, for households who have not previously demonstrated a willingness to pay for continued internet service, there may be a stronger risk of potential bill shock from an up to $20 bill increase as a result of a reduced benefit amount.

157. Legacy EBB households that would not experience a bill change as a result of the reduction of the non-Tribal benefit level to $30, including subscribers who would not pay anything for their ACP service under the reduced $30 non-Tribal benefit and subscribers who reside on qualifying Tribal lands and will continue to receive the same up to $75 benefit level, will not be required to opt-in to continue to participate in the Affordable Connectivity Program after the end of the transition period. The notices that have already been issued to all legacy EBB subscribers sufficiently advise this category of subscribers of the change in the program name, retention of the $75 Tribal benefit amount and reduction of the non-Tribal benefit to $30. For this category of legacy EBB households, participating providers must retain documentation sufficient to demonstrate that this is the applicable transition path, consistent with the document retention requirements the Commission adopts in the Order.

158. The category of legacy EBB Program households that would experience a bill increase as a result of the reduction of the non-Tribal discount to $30 but have already expressed to their current EBB provider a willingness and an ability to pay for broadband includes EBB households that (1) were existing paying internet service customers with the broadband provider when the household enrolled in the EBB with that provider; (2) previously consented to the provider's general terms and conditions if they continued to receive service at the end of the EBB Program; or (3) currently pay a fee for their supported internet service. This category of households has demonstrated to their current provider a willingness and ability to pay for internet service; therefore, they have little risk of unexpected financial harm even if their bill may potentially increase up to $20. For this category of subscribers, the ability to opt out of the Affordable Connectivity Program or change their service is sufficient.

159. Finally, legacy EBB Program households that would experience a bill increase as a result of the reduction of the non-Tribal discount to $30 but *have not* indicated to their current provider a willingness or an ability to pay for broadband either generally or at the end of the EBB Program, including households that did not have a pre-existing paying customer relationship with their current provider and have not consented to the providers' general terms and conditions if they continued service after the end of the transition period, or do not currently pay a fee for their EBB Program service, face a higher potential for bill shock and financial harm. The Commission is also concerned that, for this category of subscribers, solely providing a reminder of the right to opt out or change service may not be sufficient to mitigate the potential for unexpected financial harm.

160. To minimize the potential unexpected financial impact for this third category of legacy EBB households, the Commission gives providers multiple transition options: (1) Switch the household to an internet service that costs $30 or less a month after providing notice in advance of this change; (2) continue to provide the current level of service without increasing the household's bill if the provider has internet service options priced at $30 per month or less; or (3) obtain the consumer's opt-in to continue to receive its current service with the $30 benefit level before the first increased bill after the March 1, 2022, end of the transition period. Where a provider elects to switch legacy EBB Program households to a supported internet service that costs $30 or less, the provider must first give the household advance notice as soon as practicable before changing their service and in that notice remind the household that it has the right at any time to opt out of the Affordable Connectivity Program or change its ACP service or ACP provider. For providers that elect to obtain household opt-ins for this third category of legacy EBB households, the provider must use clear, easily understood language that informs the household of the increased rate amount, that they will be de-enrolled from the program if they do not opt in within thirty days of the opt-in request, that they have the right to opt out of the Affordable Connectivity Program, cancel or change their service or provider at any time. Participating providers must retain documentation concerning the transition path they took for this third

category of legacy EBB Program households, including any household opt-ins.

161. *Additional Notices for Legacy EBB Households About the Reduced Non-Tribal Benefit and Ability to Opt-Out.* The Commission finds that it is important to continue to provide notifications about program changes to legacy EBB Program households for at least one month after the transition period ends on March 1, 2022, particularly for participating households whose out-of-pocket costs increase as a result of the reduced monthly non-Tribal benefit under the Affordable Connectivity Program. The Commission encourages participating providers to continue to disseminate information to their legacy EBB subscribers who would have out-of-pocket costs for their ACP service as a result of the reduced $30 monthly non-Tribal benefit, including: (1) A reminder that the non-Tribal ACP benefit is $30 per month; (2) a reminder that the household has the right to cancel or change its service, or switch providers without incurring an early termination fee; and (3) a reminder that the household has the right to opt out of the Affordable Connectivity Program at any time. If a service provider is already offering or intends to offer an ACP service that would eliminate or lessen the rate increase, it would also be useful for service providers to include that information. To maximize the potential consumer outreach on these issues, the Commission also strongly encourage participating providers to post this information on their website in a location that is highly visible for legacy EBB Program households. These notices, along with the additional notices that have already been issued concerning the change from the EBB Program to the Affordable Connectivity Program, will ensure that legacy EBB Program households whose bills increased as a result of the reduced ACP non-Tribal benefit amount are aware of the actions they can take to avoid paying a higher rate for their ACP-supported internet service.

162. *Legacy EBB Program Household Reliance on Prior Household Worksheet for the EBB Program.* The Commission will not require legacy EBB Program households who transition to the Affordable Connectivity Program to submit a new household worksheet if they reside at the same address as another ACP subscriber. However, the Commission delegates authority to the Bureau to require legacy EBB Program households who reside at the same address as another ACP household to complete a new household worksheet if the Bureau determines that this would be necessary to promote program integrity, facilitate the administration of the Affordable Connectivity Program, or otherwise support program goals.

163. *Duration of Continuing the Non-Tribal EBB Benefit Level for Legacy EBB Subscribers.* Section 60502(b)(2) of the Infrastructure Act provides for a 60-day transition period, during which time EBB subscribers who were enrolled prior to December 31, 2021, and would otherwise see a reduction in their benefit under the Affordable Connectivity Program will continue to receive a benefit at the $50 non-Tribal EBB Program benefit level. The Commission interprets this language to provide for a single 60-day transition period ending on March 1, 2022, during which legacy EBB Program households who were fully enrolled in the EBB Program as of December 31, 2021, would continue to receive the $50 EBB benefit level.

I. Sunsetting Provisions

164. Given the expanded funding for the Affordable Connectivity Program, the Commission finds that it is not necessary to establish sunsetting rules at this time. Instead, the Commission delegates authority to the staff to establish procedures for the wind-down of the Program. Specifically, the Commission directs the Bureau, in coordination with OMD, OEA, and USAC, to develop a forecast of the depletion of the funding appropriated by Congress to the Commission to fund the Affordable Connectivity Program. Moreover, the Commission delegates to the Bureau to identify a process for notifying the public of the timing of the end of the Affordable Connectivity Program as the funds are nearing depletion.

165. A provider must obtain the household's affirmative opt-in, either orally or in writing, to continue providing the household broadband service after the end of the Affordable Connectivity Program and to charge a higher rate than the household would pay if it were receiving the full discount permitted under Affordable Connectivity Program rules. The Commission delegates to the Bureau the authority to establish specific timeframes for such consumer opt-ins and the appropriate consumer notice. The wind-down procedures delegated to the staff must also consider how the remaining funds will be distributed in the final month of the Affordable Connectivity Program, any timing considerations related to the reimbursement process, and other procedures necessary to smoothly wind-down the program.

166. The Commission directs the Bureau to implement procedures for reimbursement in the final month of the Affordable Connectivity Program in the event reimbursement claims exceed the amount of remaining funds, but in no circumstances will reimbursements be less than 50% of the provider's claim for that final month. For example, if based on the forecast of the depletion of funding established preceding, the remaining balance in the Affordable Connectivity Fund is sufficient to pay out 80% of each reimbursement claim submitted in the final month, the Fund will pay out 80% of each claim on a pro-rata basis, thus depleting the Fund and ending the Affordable Connectivity Fund. If, however, projections from USAC indicate that less than 50% of claims can be paid out on a pro-rata basis for the expected final month of the Affordable Connectivity Program, then USAC shall immediately notify the Bureau, OEA, and OMD. If staff agree with USAC's projections, then USAC will pause the reimbursement process for the final month, and instead staff will determine how best to use the remaining funds consistent with the Infrastructure Act.

J. Audits, Enforcement, and Removal of Providers

1. Audits

167. The Infrastructure Act requires the Commission to adopt audit requirements to ensure participating providers are in compliance with the program requirements and to prevent waste, fraud, and abuse. 47 U.S.C. 1752(b)(12). Within one year of the date of enactment of the Infrastructure Act, the Commission's Office of Inspector General is required to conduct an audit of the disbursements to a representative sample of providers. 47 U.S.C. 1752(b)(13). The Commission delegates authority to OMD to develop and implement an audit process of participating providers, for which it may obtain the assistance of third parties, including but not limited to USAC. Such ACP audits would be in addition to any audits conducted by the Commission's Office of Inspector General. The Commission also adopts the documentation retention requirements used in the EBB Program for the Affordable Connectivity Program.

168. The Commission has delegated authority to OMD, upon receiving approval from the Office of General Counsel, to issue subpoenas that directly relate to OMD's oversight of audits of the Affordable Connectivity Program. 47 CFR 0.231(l).

169. *USAC Program Integrity Reviews.* The Commission directs USAC to develop a plan to conduct program integrity reviews to address the requirements of this Order and areas where trend analysis, complaint data, or other information shows a need for such reviews to determine provider and consumer compliance with ACP rules. This plan will be subject to OMD and Bureau approval.

2. Enforcement

170. The Infrastructure Act specifies that a violation of 47 U.S.C. 1752 or any regulation promulgated under that section ''shall be treated as violation of the Communications Act of 1934 or a regulation promulgated under such Act'' and directs the Commission to enforce it ''in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Communications Act of 1934 were incorporated or made a part of this section.'' 47 U.S.C. 1752(g). Moreover, the Infrastructure Act expressly grants the Commission the authority to impose forfeiture penalties to enforce compliance. 47 U.S.C. 1752(b)(9)(C)(ii). The Commission will use its existing, statutorily permitted enforcement powers to initiate investigations of program rule violations for the Affordable Connectivity Program.

171. The Infrastructure Act, 47 U.S.C. 1752(j), provides that the Commission may not enforce a violation of the Act using its forfeiture authority if a participating provider demonstrates that it relied in good faith on information provided to such provider to make any verification required by 47 U.S.C. 1752(b)(2). That safe harbor will apply to providers who use the National Verifier for eligibility determinations or any alternative verification process approved by the Commission and act in good faith with respect to the eligibility verification processes. Providers that reasonably rely on documentation regarding eligibility determinations provided by eligible households or an eligibility determination from the National Verifier will be able to avail themselves of this statutory safe harbor with respect to their compliance with the Affordable Connectivity Program rules.

3. Removal of Participating Providers From the Affordable Connectivity Program

172. *Involuntary Removal.* The Commission finds that it is essential that the Commission have the flexibility necessary to quickly respond and remove providers that are violating program rules or threatening the integrity of the Affordable Connectivity Program while also ensuring that a provider has a fair opportunity to respond prior to being removed from the program. A participating provider may be removed from the Affordable Connectivity Program for violations of program rules of the Affordable Connectivity Program, the EBB Program, the Lifeline program, the Emergency Connectivity Fund or successor programs, or other Universal Service Fund (USF) programs. In addition, a provider may be removed from the Affordable Connectivity Program for committing any action that indicates a lack of business integrity or business honesty that seriously and directly affects the provider's responsibilities under the Affordable Connectivity Program, that undermines the integrity of the Affordable Connectivity Program, or that harms or threatens to harm prospective or existing program participants, including fraudulent program enrollments. Moreover, a provider may be removed for conviction or civil judgment for attempt or commission of fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, false statements, receiving stolen property, making false claims, obstruction of justice, or similar offense, that arises out of activities related to the Affordable Connectivity Program, the EBB Program, the Emergency Connectivity Fund or successor programs, or any of the USF programs.

173. If the Commission develops information from Commission-led or sponsored investigations or receives consumer complaints, information obtained through program integrity reviews and audits, whistleblower reports, or information shared by law enforcement or from other credible sources that yields credible allegations of misconduct, the Bureau Chief or the Chief of EB, after consultation with USAC, OMD, and CGB, as appropriate, will initiate a proceeding to consider removal of the provider. The relevant Bureau will provide notice of the proceeding to the participating provider via electronic mail and/or U.S. mail using the contact information provided in the election notice filed with USAC or other sources if there is reason to suspect that the information on file with USAC is not up-to-date. Such notice will include the legal and factual bases for the initiation of the removal proceeding (as well as notice of any interim measures taken under this paragraph and reasons therefor) and indicate that the provider will have thirty (30) days to respond to the Bureau and to provide any relevant evidence demonstrating that a rule violation or other conduct warranting removal has not in fact occurred and that the provider should not be removed from the Affordable Connectivity Program. Concurrent with the issuance of the notice or at any time before a final determination is rendered by the Bureau Chief or Chief of EB, as the case may be, such Chief may, in light of the facts and circumstances set forth in the notice commencing the removal proceeding, and with notice to the provider of this interim measure, direct on an interim basis that the provider be removed from the Commission's listing of providers, from USAC's Companies Near Me tool, or any other similar records, and may also direct USAC to temporarily suspend the participating provider's ability to enroll or transfer in new subscribers during the pendency of the removal proceeding. Any such actions may be taken only (i) if based upon adequate evidence of willful misconduct that would warrant removal of the provider under the previous paragraph, and (ii) after determining that immediate action is necessary to protect the public interest. The relevant Chief may also direct, with notice to the provider, that a funding hold (or partial hold) be placed on the provider if, based on the circumstances of a particular case, there is adequate evidence that the provider's misconduct is likely to cause or has already resulted in improper claims for ACP reimbursement and such a hold (or partial hold) is necessary to protect the public interest. Any funding hold should be tailored in a manner that is related to and proportionate to the alleged misconduct.

174. Once a timely response is received from the provider, the relevant Chief will have thirty (30) days to make a removal determination and issue an order, which shall provide a detailed explanation for the determination. This 30-day period may be extended an additional 15 days if circumstances warrant. After review of any response submitted by the provider and all available credible evidence, if the relevant Chief determines based on a preponderance of the evidence that there has been a rule violation or other conduct warranting removal, the provider's authorization to participate in the Affordable Connectivity Program will be revoked, and the provider will be removed from the program. Similarly, failure by the provider to respond or provide the requested evidence within thirty days of the date of the notice also will result in a finding

against the provider, removal from the program, and revocation of the provider's authorization to participate in the Affordable Connectivity Program. However, if the relevant Chief determines that the preponderance of the evidence fails to demonstrate that there has been a rule violation or other conduct warranting removal from the program, such Chief will take appropriate steps to reinstate the provider to the listing of providers and USAC's ''Companies Near Me'' tool, if the provider had previously been delisted, advise USAC to permit the provider ability to enroll or transfer in new subscribers (if previously blocked), and lift any funding hold. A former participating provider removed from the Affordable Connectivity Program will be barred from seeking to rejoin, or participating in, the Affordable Connectivity Program as a participating provider for at least five years, or for such additional period as the relevant Chief considers to be warranted based on the circumstances of the case.

175. A provider may request reconsideration of the decision or submit a request for review by the full Commission of the Bureau Chief's determination pursuant to the Commission's rules. *See* 47 CFR 1.106, 1.115. If the Commission declines the provider's request for review or if the Commission upholds the Bureau Chief's determination, then the provider will be removed from the Affordable Connectivity Program as provided in the Bureau Chief's decision.

176. To avoid the impact the sudden removal of a provider from the Affordable Connectivity Program would have on low-income consumers who, through no fault of their own, could lose their discounted internet services, and to allow consumers served by the removed provider an opportunity to transfer their benefit to another participating provider, removed providers will be required to continue providing service to their existing enrolled households for sixty (60) days after removal, unless otherwise directed by the relevant Bureau. The provider will be eligible to receive reimbursement for any valid claims for discounts passed through to ACP households during this 60-day period. The removed provider must send written notice to its consumers within 30 days of the final determination in the removal proceeding notifying the consumers that the provider will no longer be participating in the Affordable Connectivity Program. Notice to the enrolled households must include a statement that the provider will be removed from the program; the effective date of removal; that the household cannot continue to receive the ACP benefit from its current provider and that if the household seeks to continue receiving ACP support it must transfer to a new participating provider; instructions on how to request a transfer to a new provider and how to find another participating provider; the contact information for the USAC ACP Support Center; the amount the household would be charged if the household continues to subscribe to internet service from the provider after the effective date of removal; and other information as determined by the Bureau to help enable consumers to make informed decisions about their internet service. The removed provider shall also send a second written notice to consumers at least 15 days before the date by which the provider can no longer offer ACP-supported service. Failure to provide service during the 60-day period or to provide the preceding-referenced information to existing households may result in further enforcement action. The Commission also directs USAC to provide notice to consumers enrolled with the removed provider after the final determination in the removal proceeding.

177. The Commission delegates to the Wireline Competition Bureau and OMD the authority to modify the provider removal process as set forth in this section as may be necessary and appropriate in response to trends in the Affordable Connectivity Program, using appropriate notice and comment procedures. Any modified removal process shall continue to strike an appropriate balance between protecting consumers and the integrity of the Affordable Connectivity Program and ensuring that providers have a meaningful opportunity to respond to the allegations.

178. *Voluntary Withdrawal.* Participation in the Affordable Connectivity Program is voluntary. However, a provider's decision to leave the program will impact any households receiving ACP-supported service from that provider, and care must be taken to ensure that those households have an opportunity to transfer their benefit to another ACP provider.

179. A participating provider may withdraw its election to participate in the Affordable Connectivity Program at any time. Providers seeking to withdraw from the program must first notify USAC in writing at least 90 days before the effective date of withdrawal. The notice to USAC must contain the final date the provider will provide ACP-supported service to households and a statement confirming that as of the date of the notice to USAC the provider will cease enrolling new households, that the provider will cease advertising and marketing its participation in the Affordable Connectivity Program, and that the provider will notify its existing ACP households of its intent to exit the program. Upon receipt of this written notice, USAC and the Commission will remove the provider from the provider listings on the FCC's website and the ''Companies Near Me'' tool. As an initial matter, participating providers that were automatically transitioned from the EBB Program to the Affordable Connectivity Program must file an opt-out notice to USAC within 90 days of publication of this Order in the **Federal Register**; otherwise they will be considered to be affirmatively participating in the Affordable Connectivity Program.

180. The provider must also notify its existing ACP households of its intent to exit the program. Notice must be in writing, provided in formats accessible to individuals with disabilities, and sent to existing ACP households 90 days, 60 days, and 30 days before the effective date of withdrawal from the program. Notice to households must include the final date of service, the amount the households will be expected to pay if they remain with the provider after the provider exits the program, the effective date of such charges, and an explanation that once the provider exits the program, the ACP benefit will no longer be applied to the account, unless the subscriber transfers its benefit to a different participating provider. The notice must also include instructions detailing how to find and select a new participating provider, instructions on how to transfer to a different provider, the web address for the Commission's listing of participating providers and to USAC's ''Companies Near Me'' tool, the telephone number and email address of USAC's ACP Support Center, and the provider's customer service telephone number. During this period, the provider must continue to provide ACP-supported service to enrolled subscribers until the effective date of withdrawal from the program. Providers must retain records demonstrating compliance with the notice requirements.

K. Administration of the Affordable Connectivity Program

181. The Commission relies on USAC as the administrator of the Affordable Connectivity Program, *see* 47 U.S.C. 1752(i)(3), and the Commission relies on the use of the USAC-administered systems, including but not limited to, the National Verifier, NLAD, RAD, and the Lifeline Claims System for the

provider reimbursement process, call centers for program support, provider and consumer outreach, and conducting program integrity reviews.

182. *Administrative Cap.* The Commission directs USAC, in coordination with OMD, to regularly report to OMD its projected budget for administration of the Affordable Connectivity Program at a frequency to be determined by OMD. Based upon the initial estimates provided to OMD, which included costs associated with business process outsourcing, project management, IT professional fees, call center activities, and other costs, USAC's Affordable Connectivity Program administrative costs are estimated to be under the 2 percent cap.

183. The Commission must authorize payments from the Affordable Connectivity Fund prior to the disbursement of those funds in the United States Treasury to providers who have submitted valid claims for reimbursement. Here, the Commission provides guidance on steps participants must be prepared to take to ensure timely payment of reimbursement claims from the Affordable Connectivity Fund.

184. *FCC Red Light Rule.* Participating providers in the Affordable Connectivity Program will be subject to the red light rule that the Commission implemented to satisfy the requirements of Debt Collection Improvement Act of 1996. Under the red light rule, the Commission will not take action on applications or other requests by an entity that is found to owe debts to the Commission until full payment or resolution of that debt. 47 CFR 1.1910. If the delinquent debt remains unpaid or other arrangements have not been made within 30 days of being notified of the debt, the Commission will dismiss any pending applications. Consistent with practices in the Lifeline program and other programs such as the Telecommunications Relay Service, the red light rule is not waived for the Affordable Connectivity Program. If a prospective participant is on red light, it will need to satisfy or make arrangements to satisfy any debts owed to the Commission before its application and/or election notice will be processed. The Commission directs the Bureau and OMD to ensure that a process is in place to check an entity's red light status prior to processing an application, election notice, disbursement, or other request from the entity consistent with the red light rule.

185. *Treasury Offset.* ACP participating providers will be subject to the Treasury Offset Program (TOP), through which the Treasury may collect any delinquent debts they owe to Federal agencies and states by offsetting those debts against all or part of their ACP payments to satisfy such debt. Even if some or all of a provider's ACP payment has been offset to satisfy an outstanding Federal or State debt, it is required to pass the ACP discount to the customer for the service or connected device claimed.

186. *Do Not Pay.* Pursuant to the requirements of the Payment Integrity Information Act of 2019 (PIIA), the Commission must ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds. Payment Integrity Information (PIIA), Public Law 116–117, 134 Stat. 113 (2019). To meet this requirement, the Commission and USAC will make full use of the Do Not Pay system administered by the Treasury's Bureau of the Fiscal Service. If a check of the Do Not Pay system results in a finding that an ACP provider should not be paid, the Commission will withhold issuing commitments and payments.

187. *Database Connections for the Affordable Connectivity Program.* To facilitate increased opportunity for automatic eligibility verification, USAC and the Commission have executed computer matching agreements (CMAs) with State and Federal partners for the EBB Program that allow USAC to continue to utilize those connections for the Affordable Connectivity Program, and the Commission directs USAC to continue to engage with State and Federal agencies with which there is no existing CMA for the Affordable Connectivity Program. In particular, the Commission expects USAC to continue to pursue establishing connections with eligibility databases for WIC, a new eligibility program under the Affordable Connectivity Program. The Infrastructure Act also requires the Secretaries of the Department of Health and Human Services (HHS), USDA, and the Department of Education to enter into a Memorandum of Understanding with USAC to share National Verifier data. Infrastructure Act, div. F, tit. V, sec. 60502(e).

1. Application of Other Part 54 Regulations

188. The Infrastructure Act, 47 U.S.C. 1752(f), permits the Commission to apply rules contained in part 54 of the Commission's rules to the Affordable Connectivity Program.

189. *Subpart E.* The Commission applies select portions of the regulations that control the Lifeline and EBB Program to the Affordable Connectivity Program. Specifically, the Commission applies the following definitions in section 54.400 to the Affordable Connectivity Program, subject to the further interpretations expounded upon in the Order: (f) Income; (g) duplicative support; (h) household; (i) National Lifeline Accountability Database or Database; (j) Qualifying assistance program; (k) Direct service; (l) Broadband internet access service; (o) National Lifeline Eligibility Verifier; and (p) Enrollment representatives. 47 CFR 54.400(f), (g), (h), (i), (j), (k), (l), (o), and (p).

190. The Commission requires providers to submit a certification in their reimbursement claim that every subscriber claimed has used their supported service, as defined in 47 CFR 54.407(c)(2), in the last thirty days from the snapshot date for the relevant claims month or has timely cured their non-usage. Providers must retain documentation demonstrating the subscriber monthly usage to support this certification. To ensure that their ACP households are eligible to receive the affordable connectivity program benefit, a provider may not provide a consumer with an activated device that it represents enables use of affordable connectivity benefit supported service, nor may it activate service that it represents to be an ACP-supported service, unless and until it has: (1) Confirmed that the household is an eligible household, and; (2) completed the eligibility determination and certification and; (3) any other necessary enrollment steps expounded upon in the Order.

191. To further bolster program integrity, the Commission applies the following sections of the Lifeline rules to the Affordable Connectivity Program: 47 CFR 54.407(a), (c)(2)(i)–(v), (d) and (e), pertaining to the number of participants as of the first of the month (snapshot), the definition of service usage, reimbursement certifications, and records; 47 CFR 54.417, pertaining to recordkeeping requirements; and 47 CFR 54.419, pertaining to the validity of e-signatures.

192. The Commission applies to the ACP the relevant subsections of 47 CFR 54.404, outlining carrier interactions with the NLAD, and portions of 47 CFR 54.405 concerning carrier obligations and de-enrollment. Specifically, the Commission applies 47 CFR 54.405(e)(1), (2), and (5), for de-enrollments generally, de-enrollments for duplicative support, and de-enrollments requested by the subscriber, respectively. The Commission directs

USAC to accept and process de-enrollment requests directly from Affordable Connectivity Program subscribers, and to notify the subscriber's provider when such a de-enrollment occurs.

193. *Subpart H.* The Commission applies 47 CFR 54.702(c) prohibiting USAC from making policy, interpreting unclear provisions of the statute or rules, or interpreting the intent of Congress. Additionally, the Commission grants USAC the authority to conduct program audits of contributors and providers, as provided in 47 CFR 54.707, subject to the Commission's further direction in the Order.

194. *Subpart I.* As a path for recourse to parties aggrieved by decisions issued by USAC, review of decisions issued by USAC to follow the requirements set forth in 47 CFR part 54, subpart I.

2. Delegations to the Bureaus and Office of Managing Director

195. The Commission delegates authority to the Bureau and OMD to make necessary adjustments to the program administration and to provide additional detail and specificity to the requirements of the Affordable Connectivity Program to conform with the intent of the Order and ensure the efficient functioning of the program.

196. The Commission delegates financial oversight of the program to OMD and directs it to work in coordination with the Bureau to ensure that all financial aspects of the program have adequate internal controls. OMD is required to consult with the Bureau on any policy matters affecting the program, consistent with 47 CFR 0.91(a). OMD, in coordination with the Bureau, may issue additional directions to USAC and program participants in furtherance of its responsibilities.

197. In its administration of the Program, USAC is directed to comply with, on an ongoing basis, all applicable laws and Federal Government guidance on privacy and information security standards and requirements, such as the Privacy Act (5 U.S.C. 552a), relevant provisions in the Federal Information Security Modernization Act of 2014 (44 U.S.C. 3551 *et seq.*), National Institute of Standards and Technology publications, and Office of Management and Budget guidance.

198. The Commission recognizes that, once implementation of the Affordable Connectivity Program begins, the Commission or USAC may encounter unforeseen issues or problems with the administration of the Affordable Connectivity Program and the Commission delegates to Commission staff the authority to address and resolve such issues consistent with the requirements adopted by the Commission.

III. Severability

199. All of the Affordable Connectivity Program rules that are adopted in the Order are designed to work in unison, and with existing Lifeline rules where noted, to implement the Affordable Connectivity Program, to offer discounts to eligible low-income households off of the cost of broadband service and certain connected devices, and to strengthen and protect the integrity of the program's administration. However, each of the separate Affordable Connectivity Program rules the Commission adopt here serve a particular function toward these goals. Therefore, it is the Commission's intent that each of the rules adopted herein shall be severable. If any of the rules is declared invalid or unenforceable for any reason, it is the Commission's intent that the remaining rules shall remain in full force and effect.

IV. Procedural Matters

200. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a final regulatory flexibility analysis ''whenever an agency promulgates a final rule under [5 U.S.C. 553], after being required by that section or any other law to publish a general notice of proposed rulemaking.'' 5 U.S.C. 604(a). Pursuant to the Consolidated Appropriations Act, as extended by the Infrastructure Act, 5 U.S.C. 553 generally does not apply to the rulemaking proceeding implementing the Affordable Connectivity Program. *See* 47 U.S.C. 1752(h)(1). Furthermore, as discussed preceding, the Commission finds ''good cause'' under 5 U.S.C. 553(b)(B) to adopt the consumer protection provisions enumerated under 47 U.S.C. 1752(b)(11) without strictly following the notice procedures specified in 5 U.S.C. 553(b), to the extent necessary, because following such procedures would be ''impracticable, unnecessary, [and] contrary to the public interest'' in light of the statutory deadline for action to extend the EBB Program. 5 U.S.C. 553(b)(B). Accordingly, no Final Regulatory Flexibility Analysis is required for the Report and Order.

201. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), concurs, that the regulations implementing the Affordable Connectivity Program are a ''major rule'' under the Congressional Review Act, 5 U.S.C. 804(2). By exempting this rulemaking proceeding, in most respects, from the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), the Commission concludes that Congress has determined notice and public procedure under the Administrative Procedure Act to be impracticable, unnecessary, or contrary to the public interest. In addition, the exemption of this proceeding from the Administrative Procedure Act requirement that rules cannot become effective until 30 days after publication in the **Federal Register**, 5 U.S.C. 553(d), demonstrates Congressional intent that the rules the Commission adopt shall become effective without delay. Furthermore, with respect to the consumer protection provisions enumerated under 47 U.S.C. 1752(b)(11), the Commission finds good cause, to the extent necessary, to adopt these rules without notice and public procedure because implementing the rest of the program without these statutorily mandated consumer protections would undermine the overall scheme. Accordingly, the Commission finds for good cause that notice and public procedure on the rules adopted herein are impracticable, unnecessary, or contrary to the public interest, and therefore the rules promulgated in the Report and Order will become effective upon the dates specified herein pursuant to 5 U.S.C. 808(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

202. *Paperwork Reduction Act.* Pursuant to 47 U.S.C. 1752(h)(2), the collection of information sponsored or conducted under the regulations promulgated in the Report and Order is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501–3521.

Ordering Clauses

203. Accordingly, *it is ordered* that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, as amended by Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021), this Report and Order *is adopted.*

204. *It is further ordered* that part 54 of the Commission's rules, 47 CFR part 54, *is amended* as set forth following, and such rule amendments *shall be effective* March 16, 2022, except for new

47 CFR 54.1802(b), 54.1804, 54.1807(b), 54.1808(c)(1)–(2), 54.1809(c), and 54.1810(a)–(b), which *shall be effective* April 15, 2022.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority for part 54 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

■ 2. Effective March 16, 2022, add subpart R, consisting of §§ 54.1800 through 54.1812, to read as follows:

Subpart R—Affordable Connectivity Program

Sec.

Subpart R—Affordable Connectivity Program

§ 54.1800 Definitions.

(a) *Administrator.* The term ''Administrator'' means the Universal Service Administrative Company.

(b) *Affordable connectivity benefit.* The term ''affordable connectivity benefit'' means a monthly discount for an eligible household, applied to the actual amount charged to such household, in an amount equal to such amount charged, but not more than $30, or, if an internet service offering is provided to an eligible household on Tribal land, not more than $75.

(c) *Broadband internet access service.* The term ''broadband internet access service'' has the meaning given such term in 47 CFR 8.1(b) or any successor regulation.

(d) *Broadband provider.* The term ''broadband provider'' means a provider of broadband internet access service.

(e) *Commission.* The term ''Commission'' means the Federal Communications Commission.

(f) *Connected device.* The term ''connected device'' means a laptop or desktop computer or a tablet.

(g) *Designated as an eligible telecommunications carrier.* The term ''designated as an eligible telecommunications carrier,'' with respect to a broadband provider, means the broadband provider is designated as an eligible telecommunications carrier under section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)).

(h) *Direct service.* As used in this subpart, direct service means the provision of service directly to the qualifying low-income consumer.

(i) *Duplicative support.* ''Duplicative support'' exists when an Affordable Connectivity Program subscriber or household is receiving two or more Affordable Connectivity Program services concurrently or two or more subscribers in a household have received a connected device with an Affordable Connectivity Program discount.

(j) *Eligible household.* The term ''eligible household'' means, regardless of whether the household or any member of the household receives support under subpart E of this Part, and regardless of whether any member of the household has any past or present arrearages with a broadband provider, a household in which—

(1) At least one member of the household meets the qualifications in § 54.409(a)(2) or (b) of this part (or any successor regulation);

(2) The household's income as defined in § 54.1800(k) is at or below 200% of the Federal Poverty Guidelines for a household of that size;

(3) At least one member of the household has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 *et seq.*) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), or at least one member of the household is enrolled in a school or school district that participates in the Community Eligibility Provision (42 U.S.C. 1759a);

(4) At least one member of the household has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) in the current award year, if such award is verifiable through the National Verifier or National Lifeline Accountability Database or the participating provider verifies eligibility under § 54.1806(a)(2);

(5) At least one member of the household meets the eligibility criteria for a participating provider's existing low-income program, subject to the requirements of § 54.1806(a)(2); or

(6) At least one member of the household receives assistance through the special supplemental nutritional program for women, infants and children established by section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786).

(k) *Enrollment representative.* ''Enrollment representative'' means an employee, agent, contractor, or subcontractor, acting on behalf of a participating provider or third-party entity, who directly or indirectly provides information to the Administrator for the purpose of eligibility verification, enrollment, subscriber personal information updates, benefit transfers, or de-enrollment.

(l) *Household.* A ''household'' is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An ''economic unit'' consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(m) *Income.* ''Income'' means gross income as defined under section 61 of the Internal Revenue Code, 26 U.S.C. 61, for all members of the household. This means all income actually received by all members of the household from whatever source derived, unless specifically excluded by the Internal Revenue Code, Part III of Title 26, 26 U.S.C. 101 *et seq.*

(n) *Internet service offering.* The term ''internet service offering'' means, with respect to a broadband provider, broadband internet access service

provided by such provider to a household.

(o) *Lifeline qualifying assistance program.* A ''Lifeline qualifying assistance program'' means any of the Federal or Tribal assistance programs the participation in which, pursuant to § 54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance; Veterans and Survivors Pension Benefit; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR).

(p) *National Lifeline Accountability Database.* The ''National Lifeline Accountability Database'' is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.

(q) *National Lifeline Eligibility Verifier or National Verifier.* The ''National Lifeline Eligibility Verifier'' or ''National Verifier'' is an electronic and manual system with associated functions, processes, policies and procedures, to facilitate the determination of consumer eligibility for the Lifeline program and Affordable Connectivity Program, as directed by the Commission.

(r) *Participating provider.* The term ''participating provider'' means a broadband provider that—

(1) Is designated as an eligible telecommunications carrier; or

(2) Meets the requirements established by the Commission for participation in the Affordable Connectivity Program and is approved by the Commission under § 54.1801(b); and

(3) Elects to participate in the Affordable Connectivity Program; and

(4) Has not been removed or voluntarily withdrawn from the Affordable Connectivity Program pursuant to § 54.1801(e).

(s) *Tribal lands.* For purposes of this subpart, ''Tribal lands'' include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands—areas held in trust for Native Hawaiians by the State of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, *et. seq.,* as amended; and any land designated as such by the Commission for purposes of subpart E of this part pursuant to the designation process in § 54.412.

§ 54.1801 Participating providers.

(a) *Eligible telecommunications carriers.* A broadband provider that is designated as an eligible telecommunications carrier may participate in the Affordable Connectivity Program as a participating provider.

(b) *Other broadband providers.* A broadband provider that is not designated as an eligible telecommunications carrier may seek approval from the Wireline Competition Bureau to participate in the Affordable Connectivity Program as a participating provider.

(1) The Wireline Competition Bureau shall review and act on applications to be designated as a participating provider on an expedited basis. Such applications shall contain:

(i) The states or territories in which the provider plans to participate;

(ii) The service areas in which the provider has the authority, if needed, to operate in each State or territory, but has not been designated an eligible telecommunications carrier; and,

(iii) Certifications of the provider's plan to combat waste, fraud, and abuse, which shall:

(A) Confirm a household's eligibility for the Program through either the National Verifier or a Commission-approved eligibility verification process prior to seeking reimbursement for the respective subscriber;

(B) Follow all enrollment requirements and obtain all certifications as required by the Program, including providing eligible households with information describing the Program's eligibility requirements, one-per-household rule, and enrollment procedures;

(C) Interact with the necessary Administrator systems, including the National Verifier, National Lifeline Accountability Database, and Representative Accountability Database, before submitting claims for reimbursement, including performing the necessary checks to ensure the household is not receiving duplicative benefits within the Program;

(D) De-enroll from the Program any household it has a reasonable basis to believe is no longer eligible to receive the benefit consistent with Program requirements;

(E) Comply with the Program's document retention requirements and agree to make such documentation available to the Commission or USAC, upon request or any entities (for example, auditors) operating on their behalf; and

(F) Agree to the Commission's enforcement and forfeiture authority.

(2) Notwithstanding paragraph (b)(1) of this section, the Wireline Competition Bureau shall automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse. Such applications seeking automatic approval shall contain:

(i) The States or territories in which the provider plans to participate;

(ii) The service areas in which the provider has the authority, if needed, to operate in each State or territory, but has not been designated an Eligible Telecommunications Carrier; and,

(iii) A description, supported by documentation, of the established program with which the provider seeks to qualify for automatic admission to the Affordable Connectivity Program.

(c) *Election notice.* All participating providers shall file an election notice with the Administrator. The election notice shall be submitted in a manner and form consistent with the direction of the Wireline Competition Bureau and the Administrator. All participating providers shall maintain up-to-date contact and other administrative information contained in the election notice as designated by the Wireline Competition Bureau and the Administrator. These updates shall be made within 10 business days of the change in designated information contained in the election notice. The election notice shall be made under penalty of perjury or perjury and at a minimum should contain:

(1) The states or territories in which the provider plans to participate in the Affordable Connectivity Program;

(2) A statement that, in each State or territory, the provider was a ''broadband provider;''

(3) A list of states or territories where the provider is an existing Eligible Telecommunications Carrier, if any;

(4) A list of states or territories where the provider received Wireline Competition Bureau approval, whether automatic or expedited, to participate, if any;

(5) Whether the provider intends to distribute connected devices, and if so, documentation and information detailing the equipment, co-pay amount

charged to eligible households, and market value of the connected devices in compliance with the rules and orders of the Affordable Connectivity Program; and

(6) Any other information necessary to establish the participating provider in the Administrator's systems.

(d) *Alternative verification process application.* In accordance with § 54.1806(a)(2), all participating providers seeking to verify household eligibility with an alternative verification process shall submit an application in a manner and form consistent with the direction of Wireline Competition Bureau. All participating providers shall maintain up-to-date information contained in the application as designated by the Wireline Competition Bureau. These updates shall be made within 10 business days of the change in designated information. The alternative verification process application shall be made under penalty of perjury and at a minimum should contain:

(1) A description of how the participating provider will collect a prospective subscriber's—

(i) Full name,

(ii) Phone number,

(iii) Date of birth,

(iv) Email address,

(v) Home and mailing addresses,

(vi) Name and date of birth of the benefit qualifying person if different than applicant,

(vii) Household eligibility criteria and documentation supporting verification of eligibility, and

(viii) Certifications from the household that the information included in the application is true.

(2) A description of the process the participating provider uses to verify the required subscriber information contained in paragraph (d)(1) of this section and why this process is sufficient to prevent waste, fraud, and abuse,

(3) A description of the training the participating provider uses for its employees and agents to prevent ineligible enrollments, including enrollments based on fabricated documents,

(4) A description of why any of the criteria contained in paragraphs (d)(1) through (3) of this section is not necessary to prevent waste, fraud, and abuse if any of the criteria are not part of the alternative verification process, and

(5) A description of why the participating provider's established program requires approval of an alternative verification process and why the participating provider proposes to use an alternative verification process instead of the National Verifier for eligibility determinations.

(e) *Voluntary withdrawal or involuntary removal of participating providers from the Affordable Connectivity Program*—(1) *Definitions.* For purposes of this paragraph (e):

(i) *Removal.* Removal means involuntary discontinuation of a provider's participation in the Affordable Connectivity Program pursuant to the process outlined in paragraphs (e)(2)(ii) and (iii) of this section.

(ii) *Suspension.* Suspension means exclusion of a participating provider from activities related to the Affordable Connectivity Program for a temporary period pending completion of a removal proceeding.

(2) *Suspension and removal*—(i) *Suspension and removal in general.* The Commission may suspend and/or remove a participating provider for any of the causes in paragraph (e)(2)(ii) of this section. Suspension or removal of a participating provider constitutes suspension or removal of all its divisions, other organizational elements, and individual officers and employees, unless the Commission limits the application of the suspension or removal to specifically identified divisions, other organizational elements, or individuals or to specific types of transactions.

(ii) *Causes for suspension or removal.* Causes for suspension or removal are any of the following:

(A) Violations of the rules or requirements of the Affordable Connectivity Program, the Emergency Broadband Benefit Program, the Lifeline program, the Emergency Connectivity Fund or successor programs, or any of the Commission's Universal Service Fund programs;

(B) Any action that indicates a lack of business integrity or business honesty that seriously and directly affects the provider's responsibilities under the Affordable Connectivity Program, that undermines the integrity of the Affordable Connectivity Program, or that harms or threatens to harm prospective or existing program participants, including without limitation fraudulent enrollments.

(C) A conviction or civil judgment for attempt or commission of fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, false statements, receiving stolen property, making false claims, obstruction of justice, or similar offense, that arises out of activities related to the Affordable Connectivity Program, the Emergency Broadband Benefit Program, the Lifeline program, the Emergency Connectivity Fund or successor programs, or any of the Commission's Universal Service Fund programs.

(iii) *Suspension and removal procedures.* The following procedures apply to the suspension and removal of a participating provider:

(A) The Chief of the Wireline Competition Bureau or Enforcement Bureau will commence a removal proceeding by providing to the participating provider a notice via electronic mail and/or U.S. mail setting forth the legal and factual bases for the initiation of the removal proceeding (as well as notice of any interim measures taken under paragraph (e)(2)(iii)(B) of this section and reasons therefor) and informing the provider of its duty to respond within 30 days of the date of the notice.

(B) Concurrent with the issuance of such notice commencing the removal proceeding, or at any time before a final determination in the proceeding is rendered, the Chief of the Wireline Competition Bureau or Enforcement Bureau may, in light of the facts and circumstances set forth in the notice commencing the removal proceeding, and with notice to the provider of this interim measure, direct that the participating provider be removed from the Commission's list of providers, from the Administrator's Companies Near Me Tool, or from any similar records, and also may direct the Administrator to temporarily suspend the provider's ability to enroll or transfer in new subscribers during the pendency of the removal proceeding. Any such interim actions may be taken only {i} if based upon adequate evidence of willful misconduct that would warrant removal under paragraph (e)(2)(ii) of this section, and {ii} after determining that immediate action is necessary to protect the public interest. In addition, the Chief of the Wireline Competition Bureau or Enforcement Bureau may also direct, with notice to the provider, that an interim funding hold (or partial hold) be placed on the provider upon a determination that there is adequate evidence that the provider's misconduct is likely to cause or has already resulted in improper claims for Affordable Connectivity Program reimbursement and is necessary to protect the public interest. Any funding hold should be tailored in a manner that relates to and is proportionate to the alleged misconduct.

(C) The participating provider shall respond within 30 days of the date of the notice commencing the removal proceeding with any relevant evidence demonstrating that a rule violation or

other conduct warranting removal has not in fact occurred and that the provider should not be removed from the Affordable Connectivity Program. Failure to respond or to provide evidence in a timely manner will result in a finding against the provider, removal from the program, and revocation of the provider's authorization to participate in the Affordable Connectivity Program.

(D) Within 30 days of receiving the response, the Chief of the Wireline Competition Bureau or Enforcement Bureau will make a determination and issue an order providing a detailed explanation for the determination. If the Chief of the Wireline Competition Bureau or Enforcement Bureau determines that a preponderance of the evidence fails to demonstrate that there has been conduct warranting removal, then any measures taken under paragraph (e)(2)(iii)(B) of this section will be discontinued immediately. If the Chief of the Wireline Competition Bureau or Enforcement Bureau determines by a preponderance of the evidence that there has been conduct warranting removal, the provider's authorization to participate in the Affordable Connectivity Program will be revoked, and the provider shall be immediately removed from the program. Upon removal from the program, the former participating provider shall be barred from seeking to rejoin, and from participating in, the Affordable Connectivity Program for at least five years, or such longer period as provided for in the order, based upon review of all relevant circumstances. Any such providers will be similarly barred from participation in any Affordable Connectivity Program successor program during the removal period determined under the order.

(E) A provider may request reconsideration of the Bureau Chief's determination under paragraph (e)(2)(iii)(D) of this section or submit a request for review by the full Commission pursuant to the Commission's rules. *See* §§ 1.106, 1.115 of this chapter. A provider may also seek a stay of the Bureau Chief's determination under §§ 1.43 and 1.102(b)(3) of this chapter.

(3) *Voluntary withdrawal.* A participating provider may withdraw its election to participate in the Affordable Connectivity Program by submitting a written notice of voluntary withdrawal to the Administrator at least 90 days before the intended effective date of the withdrawal. The notice of voluntary withdrawal shall include statements that the provider is complying with each of the transition provisions set forth in paragraph (d)(4) of this section.

(4) *Transition provisions for participating providers that are removed or that voluntarily withdraw from the program and their subscribers.* (i) A participating provider shall cease to enroll or transfer in new households or to advertise or market the discounted rates for its services subject to the affordable connectivity benefit—

(A) Immediately upon the effective date of the final removal determination, unless the provider has already been precluded on an interim basis from transferring in or enrolling new households; or

(B) At least 90 days before the effective date of the provider's voluntary withdrawal from the program.

(ii) A participating provider shall provide notices regarding its removal from the program to its existing eligible household subscribers to which it provides service at discounted rates subject to the affordable connectivity benefit.

(A) The provider shall issue the first notice within 30 days of the removal determination and the second notice at least 15 days before the effective date of the provider's removal from the Affordable Connectivity Program.

(B) Such notices shall include—

(*1*) A statement that the participating provider will be removed from and no longer be participating in the Affordable Connectivity Program;

(*2*) The effective date of the provider's removal from the Affordable Connectivity Program;

(*3*) A statement that upon the effective date of the removal, the service purchased by the eligible household will no longer be available from the provider at the discounted rate subject to the affordable connectivity benefit;

(*4*) The amount that the eligible household will be expected to pay if it continues purchasing the service from the provider after the discounted rate is no longer available;

(*5*) An explanation that in order to continue receiving internet service with an affordable connectivity benefit after the provider has been removed from the program, the eligible household must transfer its affordable connectivity benefit to a different participating provider;

(*6*) Information on how to locate providers participating in the Affordable Connectivity Program, including the web address for USAC's Companies Near Me tool, any provider listing published by the Commission, and other resources as applicable;

(*7*) Instructions on how to find and select a new participating provider and to request such a transfer;

(*8*) The provider's customer service telephone number and the telephone number and email address of the Administrator's Affordable Connectivity Program support center; and

(*9*) Other information as determined by the Wireline Competition Bureau.

(iii) A participating provider shall provide written notices regarding its voluntary withdrawal from the program to its existing eligible household subscribers to which it provides service at discounted rates subject to the affordable connectivity benefit.

(A) The provider shall issue such notices 90 days, 60 days, and 30 days before the effective date of the provider's voluntary withdrawal from the program.

(B) Such notices shall include—

(*1*) The date when the service purchased by the eligible household will no longer be available from the provider at the discounted rate subject to the affordable connectivity benefit;

(*2*) The amount that the eligible household will be expected to pay if it continues purchasing the service from the provider after the affordable connectivity program discount is no longer available and the effective date of the new rate;

(*3*) An explanation that in order to continue receiving internet service with an affordable connectivity benefit after the provider withdraws from the Affordable Connectivity Program, the eligible household shall transfer its affordable connectivity benefit to a different participating provider;

(*4*) Instructions on how to find and select a new participating provider and to request such a transfer;

(*5*) Information on how to locate providers participating in the Affordable Connectivity Program, including the web address for the Administrator's Companies Near Me tool, any provider listing published by the Commission, and other resources as applicable; and

(*6*) The provider's customer service telephone number and the telephone number and email address of the Administrator's Affordable Connectivity Program support center.

(iv) A provider shall continue providing service to its existing eligible household subscribers at discounted rates subject to the affordable connectivity benefit—

(A) Until the date 60 days after the effective date of the removal or order; or

(B) Until the effective date of its voluntary withdrawal from the program.

(v) A provider that has been removed or that has voluntarily withdrawn from

the program may continue to request and receive reimbursements from the Administrator for the amount of the affordable connectivity benefit discounts that it provided to eligible household subscribers during the required 60 days following removal or until voluntary withdrawal, subject to the deadline for filing reimbursement claims.

(vi) The provider shall retain records demonstrating its compliance with these transition requirements.

(f) *Annual certification by participating providers.* An officer of the participating provider who oversees Affordable Connectivity Program business activities shall annually certify, under the penalty of perjury, that the participating provider has policies and procedures in place to comply with all Affordable Connectivity Program rules and procedures. This annual certification shall be made in a manner prescribed by the Wireline Competition Bureau and the Administrator. At a minimum, the annual certification requires the aforementioned officer of the participating provider attest to:

(1) The participating provider having policies and procedures in place to ensure that its enrolled households are eligible to receive Affordable Connectivity Program support;

(2) The participating provider having policies and procedures in place to ensure it accurately and completely provides information to required administrative systems, including the National Verifier, National Lifeline Accountability Database, Representative Accountability Database, and other Administrator Systems; and,

(3) The participating provider acknowledging that:

(i) It is subject to the Commission's enforcement, fine, or forfeiture authority under the Communications Act;

(ii) It is liable for violations of the Affordable Connectivity Program rules and that its liability extends to violations by its agents, contractors, and representatives;

(iii) Failure to be in compliance and remain in compliance with the Affordable Connectivity Program rules and orders, or for its agents, contractors, or representatives to fail to be in compliance, may result in the denial of funding, cancellation of funding commitments, and the recoupment of past disbursements; and

(iv) Failure to comply with the rules and orders governing the Affordable Connectivity Program could result in civil or criminal prosecution by law enforcement authorities.

§ 54.1802 Affordable connectivity benefit.

(a) The Affordable Connectivity Program will provide reimbursement to a participating provider for the monthly affordable connectivity benefit on the price of broadband internet access service (including associated equipment necessary to provide such service) it provides to an eligible household plus any amount the participating provider is entitled to receive for providing a connected device to such a household under § 54.1803(b).

(b) [Reserved]

§ 54.1803 Affordable Connectivity Program support amounts.

(a) The monthly affordable connectivity benefit support amount for all participating providers shall equal the actual discount provided to an eligible household off of the actual amount charged to such household but not more than $30.00 per month, if that provider certifies that it will pass through the full amount of support to the eligible household, or not more than $75.00 per month, if that provider certifies that it will pass through the full amount of support to the eligible household on Tribal lands, as defined in § 54.1800(s).

(b) A participating provider that, in addition to providing a broadband internet access service subject to the affordable connectivity benefit to an eligible household, supplies such household with a connected device may be reimbursed by an amount equal to the market value of the device less the amount charged to and paid by the eligible household, but no more than $100.00 for such connected device.

(1) A participating provider that provides a connected device to an eligible household shall charge and collect from the eligible household more than $10.00 but less than $50.00 for such connected device;

(2) An eligible household may receive, and a participating provider may receive reimbursement for, no more than one (1) connected device per eligible household;

(3) The eligible household shall not receive such a discount for a connected device, and the participating provider shall not receive reimbursement for providing the connected device at such a discount, if the household or any member of the household previously received a discounted connected device from a participating provider in the Emergency Broadband Benefit Program or in the Affordable Connectivity Program.

§ 54.1804 [Reserved]

§ 54.1805 Household qualifications for Affordable Connectivity Program.

(a) To qualify for the Affordable Connectivity Program, a household must constitute an eligible household under the definition in § 54.1800(j).

(b) In addition to meeting the qualifications provided in paragraph (a) of this section, in order to qualify to receive an affordable connectivity benefit from a participating provider, neither the eligible household nor any member of the household may already be receiving another affordable connectivity benefit from that participating provider or any other participating provider.

§ 54.1806 Household eligibility determinations and annual recertification.

(a) *Eligibility verification processes.* To verify whether a household is an eligible household, a participating provider shall—

(1) Use the National Verifier; or

(2) Rely upon an alternative verification process of the participating provider, if—

(i) The participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement; and

(ii) Not later than 7 days after receiving the information required under paragraph(a)(2)(i) of this section, the Wireline Competition Bureau—

(A) Determines that the alternative verification process will be sufficient to avoid waste, fraud, and abuse; and

(B) Notifies the participating provider of the determination under paragraph (a)(2)(ii)(A) of this section.

(3) Rely on a school to verify the eligibility of a household based on the participation of the household in the free and reduced price lunch program or the school breakfast program as described in § 54.1800(j)(3). The participating provider shall retain documentation demonstrating the school verifying eligibility, the program(s) that the school participates in, the qualifying household, and the program(s) the household participates in.

(4) Check its own electronic systems, whether such systems are maintained by the participating provider or a third party, to confirm that the household is not already receiving another affordable connectivity benefit from that participating provider.

(5) Collect and retain documentation establishing at least one member of the household is enrolled in a school or school district that participates in the

National School Lunch Program's Community Eligibility Provision (CEP) (42 U.S.C. 1759a) if enrolling households based on CEP eligibility.

(b) *Participating providers' obligations.* All participating providers shall implement policies and procedures for ensuring that their Affordable Connectivity Program households are eligible to receive the affordable connectivity benefit. A provider may not provide a consumer with service that it represents to be Affordable Connectivity Program-supported service or seek reimbursement for such service, unless and until it has:

(1) Confirmed that the household is an eligible household pursuant to § 54.1805(a) and (b);

(2) Completed any other necessary enrollment steps, and;

(3) Securely retained all information and documentation it receives related to the eligibility determination and enrollment, consistent with § 54.1811.

(c) *One-per-household worksheet.* If the prospective household shares an address with one or more existing Affordable Connectivity Program subscribers according to the National Lifeline Accountability Database or National Verifier, the prospective subscriber shall complete a form certifying compliance with the one-per-household rule set forth in § 54.1805(b) prior to initial enrollment.

(d) *The National Lifeline Accountability Database.* In order to receive Affordable Connectivity Program support, participating providers shall comply with the following requirements:

(1) All participating providers shall query the National Lifeline Accountability Database to determine whether a prospective subscriber is currently receiving an Affordable Connectivity Program supported service from another participating provider; and whether anyone else living at the prospective subscriber's residential address is currently receiving an Affordable Connectivity Program-supported service.

(2) If the National Lifeline Accountability Database indicates that a prospective subscriber who is not seeking to transfer his or her affordable connectivity benefit, is currently receiving an Affordable Connectivity Program-supported service, the participating provider shall not provide and shall not seek or receive Affordable Connectivity Program reimbursement for that subscriber.

(3) Participating providers may query the National Lifeline Accountability Database only for the purposes provided in paragraphs (d)(1) and (2) and (e)(1) and (2) of this section, and to determine whether information with respect to its subscribers already in the National Lifeline Accountability Database is correct and complete.

(4) Participating providers shall transmit to the National Lifeline Accountability Database in a format prescribed by the Administrator each new and existing Affordable Connectivity Program subscriber's full name; full residential address; date of birth; the telephone number associated with the Affordable Connectivity Program service; the date on which the Affordable Connectivity Program discount was initiated; the date on which the Affordable Connectivity Program discount was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for the Affordable Connectivity Program.

(5) All participating providers shall update an existing Affordable Connectivity Program subscriber's information in the National Lifeline Accountability Database within ten business days of receiving any change to that information, except as described in paragraph (d)(7) of this section.

(6) All participating providers shall obtain, from each new and existing subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the participating provider shall describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Affordable Connectivity Program, and that failure to provide consent will result in subscriber being denied the affordable connectivity benefit.

(7) When a participating provider de-enrolls a subscriber from the Affordable Connectivity Program, it shall transmit to the National Lifeline Accountability Database the date of Affordable Connectivity Program de-enrollment within one business day of de-enrollment.

(8) All participating providers shall securely retain subscriber documentation that the participating provider reviewed to verify subscriber eligibility, for the purposes of production during audits or investigations or to the extent required by National Lifeline Accountability Database or National Verifier processes, which require, inter alia, verification of eligibility, identity, address, and age.

(9) A participating provider shall not enroll or claim for reimbursement a prospective subscriber in the Affordable Connectivity Program if the National Lifeline Accountability Database or National Verifier cannot verify the subscriber's status as alive, unless the subscriber produces documentation to demonstrate his or her identity and status as alive.

(10) A participating provider shall apply the Affordable Connectivity Program benefit no later than the start of the first billing cycle after the household's enrollment or transfer, and pass through the discount to the household prior to claiming reimbursement for the discount in the Affordable Connectivity Program.

(e) *Connected device reimbursement and the National Lifeline Accountability Database.* In order to receive Affordable Connectivity Program reimbursement for a connected device, participating providers shall comply with § 54.1803(b) and the following requirements:

(1) Such participating provider shall query the National Lifeline Accountability Database to determine whether a prospective connected device benefit recipient has previously received a connected device benefit.

(2) If the National Lifeline Accountability Database indicates that a prospective subscriber has received a connected device benefit, the participating provider shall not seek a connected device reimbursement for that subscriber.

(3) Such participating provider shall not seek a connected device reimbursement for a subscriber that is not receiving the affordable connectivity benefit for service provided by the same participating provider, except that a participating provider may seek reimbursement for a connected device provided to a household if the household had been receiving an Affordable Connectivity Program-supported service from that provider at the time the connected device was supplied to the household, but the household subsequently transferred its benefit to another provider before the provider had an opportunity to claim the connected device.

(4) Where two or more participating providers file a claim for a connected device reimbursement for the same subscriber, only the participating provider whose information was received and processed by the National Lifeline Accountability Database or Lifeline Claims System first, as determined by the Administrator, will be entitled to a connected device reimbursement for that subscriber.

(5) All participating providers shall obtain from each subscriber consent to transmit the information required under paragraphs (d)(1) and (e)(1) of this section. Prior to obtaining consent, the participating provider shall describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Affordable Connectivity Program connected device benefit, and that failure to provide consent will result in the subscriber being denied the Affordable Connectivity Program connected device benefit.

(6) In a manner and form consistent with the direction of the Wireline Competition Bureau and the Administrator, a participating provider shall provide to the Administrator information concerning the connected device supplied to the household, including device type, device make, device model, subscriber ID of the household that received the device, date the device was delivered to the household, method used to provide the device (shipped, in store, or installed by provider), market value of the device, and amount paid by the household to the provider for the device. No claim for reimbursement for a connected device supplied by the participating provider to the household shall be submitted prior to payment by the household of the amount described in § 54.1803(b)(1).

(f) *Annual eligibility re-certification.* (1) Participating providers shall re-certify annually all Affordable Connectivity Program subscribers whose initial eligibility was verified through the participating provider's approved alternative verification process or through a school, except where the Administrator using the National Verifier is responsible for the annual recertification of Affordable Connectivity Program subscribers. The Administrator using the National Verifier will re-certify the eligibility of all other Affordable Connectivity Program subscribers. Affordable Connectivity Program subscribers who are also enrolled in Lifeline may rely on a successful recertification for the Lifeline program to satisfy this requirement.

(2) In order to recertify a subscriber's eligibility for the Affordable Connectivity Program, a participating provider shall confirm a subscriber's current eligibility to receive an affordable connectivity benefit by following the eligibility process and requirements under paragraphs (b)(1) through (5) of this section and shall also follow the requirements and processes for either its alternative verification processes approved under paragraph (a)(2) of this section or the eligibility verification processes and requirements for school-based eligibility verifications in paragraph (a)(3) of this section, confirming that the subscriber still meets the program or income-based eligibility requirements for the Affordable Connectivity Program, and documenting the results of that review.

(3) Where the Administrator is responsible for re-certification of a subscriber's Affordable Connectivity Program eligibility, the Administrator shall confirm a subscriber's current eligibility to receive Affordable Connectivity Program service by:

(i) Querying the appropriate eligibility databases, confirming that the subscriber still meets the program-based eligibility requirements for the Affordable Connectivity Program, and documenting the results of that review; or

(ii) Querying the appropriate income databases, confirming that the subscriber continues to meet the income-based eligibility requirements for the Affordable Connectivity Program, and documenting the results of that review; or

(iii) If the subscriber's program-based or income-based eligibility for the Affordable Connectivity Program cannot be determined by accessing one or more eligibility or income databases, then the Administrator shall obtain a signed certification from the subscriber confirming the subscriber's continued eligibility. If the subscriber's eligibility was previously confirmed through an eligibility or income database during enrollment or a prior recertification and the subscriber is no longer included in any eligibility or income database the Administrator shall obtain both an approved Annual Recertification Form and acceptable documentation demonstrating eligibility from that subscriber to complete the recertification process.

(4) Where the Administrator is responsible for re-certification of subscribers' Affordable Connectivity Program eligibility, the Administrator shall provide to each provider the results of its annual re-certification efforts with respect to that provider's subscribers.

(5) If a provider is unable to re-certify a subscriber or has been notified by the Administrator that it is unable to re-certify a subscriber, the provider shall comply with the de-enrollment requirements provided for in § 54.1809(d).

(6) One-Per-Household Worksheet—at re-certification, if the subscriber resides at the same address as another Affordable Connectivity Program subscriber and there are changes to the subscriber's household relevant to whether the subscriber is only receiving one affordable connectivity benefit per household, then the subscriber shall complete a new Household Worksheet. Providers must retain the one-per-household worksheet for subscribers subject to this requirement in accordance with § 54.1811.

§ 54.1807 Enrollment representative registration and compensation.

(a) *Enrollment representative registration.* A participating provider shall require that enrollment representatives register with the Administrator before the enrollment representative can provide information directly or indirectly to the National Lifeline Accountability Database or the National Verifier.

(1) As part of the registration process, participating providers shall require that all enrollment representatives provide the Administrator with identifying information, which may include first and last name, date of birth, the last four digits of his or her social security number, email address, and residential address. Enrollment representatives will be assigned a unique identifier, which shall be used for:

(i) Accessing the National Lifeline Accountability Database;

(ii) Accessing the National Verifier;

(iii) Accessing any eligibility database; and

(iv) Completing any Affordable Connectivity Program enrollment or verification forms.

(2) Participating providers shall ensure that enrollment representatives shall not use another person's unique identifier to enroll Affordable Connectivity Program subscribers, recertify Affordable Connectivity Program subscribers, or access the National Lifeline Accountability Database or National Verifier.

(3) Participating providers shall ensure that enrollment representatives shall regularly recertify their status with the Administrator to maintain their unique identifier and maintain access to the systems that rely on a valid unique identifier. Participating providers shall also ensure that enrollment representatives shall update their registration information within 30 days of any change in such information.

(b) [Reserved]

§ 54.1808 Reimbursement for providing monthly affordable connectivity benefit.

(a) Affordable Connectivity Program support for providing a qualifying broadband internet access service shall be provided directly to a participating provider based on the number of actual qualifying low-income households listed in the National Lifeline Accountability Database that the participating provider serves directly as of the first day of the calendar month.

(b) For each eligible household receiving the affordable connectivity benefit on a broadband internet access service, the reimbursement amount shall equal the appropriate support amount as described in § 54.1803. The participating provider's Affordable Connectivity Program reimbursement shall not exceed the actual amount charged by the participating provider.

(c) A participating provider offering a service subject to the affordable connectivity benefit that does not require the participating provider to assess and collect a monthly fee from its subscribers shall not receive support for a subscriber to such service until the subscriber activates the service by whatever means specified by the provider; and

(1) [Reserved]

(2) [Reserved]

(d) A participating provider that, in addition to providing the affordable connectivity benefit to an eligible household, provides such household with a connected device may be reimbursed in the amount and subject to the conditions specified in §§ 54.1803(b) and 54.1806(e).

(e) In order to receive Affordable Connectivity Program reimbursement, an officer of the participating provider shall certify, under penalty of perjury, as part of each request for reimbursement, that:

(1) The officer is authorized to submit the request on behalf of the participating provider;

(2) The officer has read the instructions relating to reimbursements and the funds sought in the reimbursement request are for services and/or devices that were provided in accordance with the purposes and objectives set forth in the statute, rules, requirements, and orders governing the Affordable Connectivity Program;

(3) The participating provider is in compliance with and satisfied all requirements in the statute, rules, and orders governing the Affordable Connectivity Program reimbursement, and the provider acknowledges that failure to be in compliance and remain in compliance with Affordable Connectivity Program statutes, rules, and orders may result in the denial of reimbursement, cancellation of funding commitments, and/or recoupment of past disbursements;

(4) The participating provider has obtained valid certification and application forms as required by the rules in this subpart for each of the subscribers for whom it is seeking reimbursement;

(5) The amount for which the participating provider is seeking reimbursement from the Affordable Connectivity Fund is not more than the amount charged to the eligible household and the discount has already been passed through to the household;

(6) Each eligible household for which the participating provider is seeking reimbursement for providing an internet service offering discounted by the affordable connectivity benefit—

(i) Has not been and will not be charged for the amount the provider is seeking for reimbursement;

(ii) Will not be required to pay an early termination fee if such eligible household elects to enter into a contract to receive such internet service offering if such household later terminates such contract;

(iii) Was not, after the date of the enactment of the Consolidated Appropriations Act, 2021, as amended by the Infrastructure Investment and Jobs Act, subject to a mandatory waiting period for such internet service offering based on having previously received broadband internet access service from such participating provider; and

(iv) Will otherwise be subject to the participating provider's generally applicable terms and conditions as applied to other subscribers.

(7) Each eligible household for which the participating provider is seeking reimbursement for supplying such household with a connected device was charged by the provider and has paid more than $10.00 but less than $50.00 for such connected device;

(8) If offering a connected device, the connected device claimed meets the Commission's requirements, the representations regarding the devices made on the provider's website and promotional materials are true and accurate, that the reimbursement claim amount does not exceed the market value of the connected device less the amount charged to and paid by the eligible household, and that the connected device has been delivered to the household;

(9) If the participating provider used an alternative verification process to verify that each household is eligible for the Affordable Connectivity Program, the verification process used was designed to avoid waste, fraud, and abuse;

(10) If seeking reimbursement for a connected device, the provider has retained the relevant supporting documents that demonstrate the connected devices requested are eligible for reimbursement and submitted the required information;

(11) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by § 54.10;

(12) All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported services and/or connected devices provided through the Affordable Connectivity Program, and are subject to audit, inspection, or investigation and will be made available at the request of any representative (including any auditor) appointed by the Commission and its Office of Inspector General, or any local, State, or Federal agency with jurisdiction over the provider;

(13) The provider has not offered, promised, received, or paid kickbacks, as defined by 41 U.S.C. 8701, in connection with the Affordable Connectivity Program;

(14) The information contained in this form is true, complete, and accurate to the best of the officer's knowledge, information, and belief, and is based on information known to the officer or provided to the officer by employees responsible for the information being submitted;

(15) The officer is aware that any false, fictitious, or fraudulent information, or the omission of any material fact on this request for reimbursement or any other document submitted by the provider, may subject the provider and the officer to punishment by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b), 1606), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001, 286–87, 1343), or can lead to liability under the False Claims Act (31 U.S.C. 3729–3733, 3801–3812);

(16) No service costs or devices sought for reimbursement have been waived, paid, or promised to be paid by

another entity, including any other Federal or State program;

(17) All enrollments and transfers completed by the provider were bona fide, requested and consented by the subscriber household after receiving the disclosures required under § 54.1810(a) and (b), and made pursuant to program rules; and

(18) The provider used the National Lifeline Accountability Database as a tool for enrollment, reimbursement calculations, and duplicate checks in all States, territories, and the District of Columbia, and checked their records in accordance with § 54.1806(a)(4).

(f) In order to receive Affordable Connectivity Program reimbursement, a participating provider shall keep accurate records of the revenues it forgoes in providing Affordable Connectivity Program-supported services. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart.

(g) In order to receive reimbursement, participating providers shall submit certified reimbursement claims through the Lifeline Claims System within six months of the snapshot date in paragraph (a) of this section, or the following business day in the event the 1st is a holiday or falls on a weekend. If the participating provider fails to submit a certified reimbursement claim by the six-month deadline, the reimbursement claim will not be processed.

§ 54.1809 De-enrollment from the Affordable Connectivity Program.

(a) *De-enrollment generally.* If a participating provider has a reasonable basis to believe that an Affordable Connectivity Program subscriber does not meet or no longer meets the criteria to be considered an eligible household under § 54.1805, the participating provider shall notify the subscriber of impending termination of his or her affordable connectivity benefit. Notification of impending termination shall be sent in writing separate from the subscriber's monthly bill, if one is provided, and shall be written in clear, easily understood language. The participating provider shall allow a subscriber 30 days following the date of the impending termination letter to demonstrate continued eligibility. A subscriber making such a demonstration shall present proof of continued eligibility to the National Verifier or the participating provider consistent with the participating provider's approved alternative verification process. A participating provider shall de-enroll any subscriber who fails to demonstrate eligibility within five business days after the expiration of the subscriber's deadline to respond.

(b) *De-enrollment for duplicative support.* Notwithstanding paragraph (a) of this section, upon notification by the Administrator to any participating provider that a subscriber is receiving the affordable connectivity benefit from another participating provider, or that more than one member of a subscriber's household is receiving the affordable connectivity benefit and that the subscriber should be de-enrolled from participation in that provider's Affordable Connectivity Program, the participating provider shall de-enroll the subscriber from participation in that provider's Affordable Connectivity Program within five business days. A participating provider shall not claim any de-enrolled subscriber for Affordable Connectivity Program reimbursement following the date of that subscriber's de-enrollment.

(c) [Reserved]

(d) *De-enrollment for failure to re-certify.* Notwithstanding paragraph (a) of this section, a participating provider shall de-enroll an Affordable Connectivity Program subscriber who does not respond to the provider's attempts to obtain re-certification of the subscriber's continued eligibility as required by § 54.1806(f); or who fails to provide the annual one-per-household re-certification as required by § 54.1806(f)(6). Prior to de-enrolling a subscriber under this paragraph, the provider shall notify the subscriber in writing separate from the subscriber's monthly bill, if one is provided, using clear, easily understood language, that failure to respond to the re-certification request will trigger de-enrollment. A subscriber shall be given 60 days to respond to recertification efforts. If a subscriber does not respond to the provider's notice of impending de-enrollment, the provider shall de-enroll the subscriber from the Affordable Connectivity Program within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

(e) *De-enrollment requested by subscriber.* If a participating provider receives a request from a subscriber to de-enroll from the Affordable Connectivity Program, it shall de-enroll the subscriber within two business days after the request.

§ 54.1810 Consumer protection requirements.

(a)–(b) [Reserved]

(c) *Credit checks.* (1) A participating provider shall not:

(i) Consider the results of a credit check as a condition of enrollment in the Affordable Connectivity Program.

(ii) Consider the results of a credit check to determine to which Affordable Connectivity Program-supported internet service plan a household may apply the affordable connectivity benefit.

(iii) Use the results of a credit check to decline to transfer a household's Affordable Connectivity Program benefit.

(d) *Non-payment.* (1) Bill payment due date means the due date for payment specified on a bill for service charges.

(2) A participating provider shall not terminate an eligible household's service subject to the affordable connectivity benefit on the grounds that the household has failed to pay the charges set forth on a bill for such service unless 90 consecutive days have passed since the bill payment due date.

(e) *Upselling and downselling*—(1) *Prohibition of inappropriate upselling and downselling.* A participating provider and its agents shall not exert pressure on an eligible household to induce the purchase of a broadband internet access service or bundled plan that is more costly, less costly, affords different features, provides higher or lower speed or bandwidth, is subject to higher or lower data caps, or is bundled with additional services, equipment, or features, or fewer services, equipment, or features, than the service or plan that the household is already purchasing or has inquired about purchasing through the Affordable Connectivity Program.

(2) *Specific prohibited activities.* Prohibited activities include, but are not limited to:

(i) Requiring, as a condition of enrolling the household or applying the affordable connectivity benefit, that the household select a service, bundled plan, or equipment, other than the service or bundled plan that the eligible household subscriber is already purchasing or using or has inquired about.

(ii) Pressuring an eligible household to purchase a service or bundled plan to benefit the provider but not the household.

(3) *Permitted activities.* Provided that they do not exert pressure on existing or prospective eligible household subscribers, participating providers—

(i) May communicate information regarding tiers of service that afford higher or lower speeds or bandwidth, are available at higher or lower prices, or have features that differ from a

service or plan that an eligible household is already purchasing or has inquired about for the Affordable Connectivity Program; and

(ii) May create or promote service plans that are specially priced or designed to meet the needs of eligible households.

(f) *Extended service contracts and early termination fees*—(1) *Definitions.* (i) An extended service contract is typically an offer of service at a discount price in exchange for a commitment from the subscriber to remain on that service plan for a set period of time, usually at least a year.

(ii) Early termination fees are fees that a subscriber is obligated to pay if it purchases a service plan subject to an extended service contract but terminates service before the end of the specified term of the contract.

(2) *Extended service contracts.* An eligible household may elect to purchase and apply the affordable connectivity benefit to a participating provider's service plan subject to an extended service contract.

(3) *Early termination fees.* Notwithstanding the provisions that apply to subscribers to extended service contracts who are not eligible households, an eligible household shall not be liable for early termination fees if it purchases and applies its affordable connectivity benefit to a service plan subject to an extended service contract but terminates service before the end of the specified term of the contract.

(g) *Restrictions on switching service offerings.* A participating provider shall not impose any restrictions on a household's ability to switch internet service offerings, unless, once the consumer enters a delinquent status after the bill due date, the provider limits available service plans to offerings that are covered by the full benefit amount, and the household consents to switch service plans.

(h) *Restrictions on switching providers.* (1) A participating provider shall not engage in any practice that is reasonably likely to cause a household to believe it is prohibited or restricted from transferring its benefit to a different participating provider.

(2) A participating provider shall not:

(i) Misrepresent or fail to accurately disclose to a household the rules and requirements pertaining to transfers to another participating provider in the Affordable Connectivity Program;

(ii) Charge a household a fee to transfer their benefit to another participating provider; or

(iii) Suggest or imply that the provider may change the household's service plan if it transfers the benefit to another participating provider.

(i) *Unjust and unreasonable acts or practices.* (1) Providers are prohibited from engaging in unjust and unreasonable acts or practices that would undermine the purpose, intent, or integrity of the Affordable Connectivity Program.

(2) Such unjust and unreasonable acts or practices include, but are not limited to:

(i) Advertising or holding itself out as a participating provider if it is not authorized to participate in the Affordable Connectivity Program;

(ii) Engaging in false or misleading advertising of the Affordable Connectivity Program;

(iii) Failing to timely provide service, equipment, or devices that are advertised, promoted, or marketed as part of the Affordable Connectivity Program;

(iv) Failing to enroll an eligible household as soon as practicable once the provider receives the household's affirmative consent to enroll with that provider;

(v) Failing to apply the affordable connectivity benefit to such household on or before the start of the household's next billing cycle;

(vi) Failing to deliver a supported connected device within 30 days of obtaining the household's affirmative consent to receive such device; and

(vii) Violating any Program rule.

§ 54.1811 Recordkeeping requirements.

Participating providers shall maintain records to document compliance with all Commission requirements governing the Affordable Connectivity Program for the six full preceding calendar years and provide that documentation to the Commission or Administrator, or their designee, upon request. Participating providers shall maintain the documentation related to the eligibility determination and reimbursement claims for an Affordable Connectivity Program subscriber for as long as the subscriber receives the Affordable Connectivity Program discount from that participating provider, but for no less than the six full preceding calendar years.

§ 54.1812 Validity of electronic signatures.

(a) For the purposes of this subpart, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(b) For the purposes of this subpart, an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

■ 3. Effective April 15, 2022, amend § 54.1802 by adding paragraph (b) to read as follows:

§ 54.1802 Affordable connectivity benefit.

* * * * *

(b) A participating provider may allow an eligible household to apply the affordable connectivity benefit to any residential service plan selected by the eligible household that includes broadband internet access service or a bundle of broadband internet access service along with fixed or mobile voice telephony service, text messaging service, or both.

■ 4. Effective April 15, 2022, add § 54.1804 to read as follows:

§ 54.1804 Participating provider obligation to offer the Affordable Connectivity Program.

All participating providers in the Affordable Connectivity Program shall:

(a) Make available the affordable connectivity benefit to eligible households.

(b) Publicize the availability of the Affordable Connectivity Program in a manner reasonably designed to reach those likely to qualify for the service and in a manner that is accessible to individuals with disabilities.

(c) Notify all consumers who either subscribe to or renew a subscription to an internet service offering about the Affordable Connectivity Program and how to enroll.

(1) Providers shall deliver a notice in writing or orally, in a manner that is accessible to persons with disabilities:

(i) During enrollment for new subscribers;

(ii) At least 30 days before the date of renewal for subscribers not enrolled in the Affordable Connectivity Program who have fixed-term plans longer than one month; and

(iii) Annually for subscribers not already enrolled in the Affordable Connectivity Program who have month-to-month or similar non-fixed term plans.

(2) The notice shall, at a minimum, indicate;

(i) The eligibility requirements for consumer participation;

(ii) That the Affordable Connectivity Program is non-transferable and limited to one monthly internet discount and a one-time connected device discount per household;

(iii) How to enroll, such as a customer service phone number or relevant website information; and

(iv) That the Affordable Connectivity Program is a Federal Government benefit program operated by the Federal Communications Commission and, if the Program ends, or when a household is no longer eligible, subscribers will be subject to the provider's regular rates, terms, and conditions.

(d) Frequently carry out public awareness campaigns in their Affordable Connectivity Program areas of service that highlight the value and benefits of broadband internet access service and the existence of the Affordable Connectivity Program in collaboration with State agencies, public interest groups, and non-profit organizations and retain documentation sufficient to demonstrate their compliance with the public awareness obligations.

■ 5. Effective April 15, 2022, amend § 54.1807 by adding paragraph (b) to read as follows:

§ 54.1807 Enrollment representative registration and compensation.

* * * * *

(b) *Prohibition of commissions for enrollment representatives.* A participating provider shall not offer or provide to enrollment representatives, their direct supervisors, or entities that operate on behalf of the participating provider, any form of compensation that is—

(1) Based on the number of consumers or households that apply for or are enrolled in the Affordable Connectivity Program with the participating provider;

(2) Based on revenues that the participating provider has received or expects to receive in connection with the Affordable Connectivity Program, including payments for connected devices;

(3) Based on the participating provider permitting the retention of cash payments received from the subscriber as part of the required contribution for a connected device;

(4) Shifted, characterized or otherwise classified as compensation paid in connection with other services, business operations, or unrelated to Affordable Connectivity Program activities that is based on Affordable Connectivity Program applications, enrollments, or revenues.

* * * * *

■ 6. Effective April 15, 2022, amend § 54.1808 by adding paragraphs (c)(1) and (2) to read as follows:

§ 54.1808 Reimbursement for providing monthly affordable connectivity benefit.

* * * * *

(c) * * *

(1) After service activation, shall only continue to receive reimbursement for the affordable connectivity benefit on such service provided to subscribers who have used the service within the last 30 days, or who have cured their non-usage as provided for in § 54.1809(c); and

(2) Shall certify that every subscriber claimed has used their service subject to the affordable connectivity benefit, as ''usage'' is defined by § 54.407(c)(2), at least once in the last 30 consecutive days or has cured their non-usage as provided in § 54.1809(c), in order to claim that subscriber for reimbursement for a given service month.

* * * * *

■ 7. Effective April 15, 2022, amend § 54.1809 by adding paragraph (c) to read as follows:

§ 54.1809 De-enrollment from the Affordable Connectivity Program.

* * * * *

(c) *De-enrollment for non-usage.* Notwithstanding paragraph (a) of this section, if an Affordable Connectivity Program subscriber fails to use, as ''usage'' is defined in § 54.407(c)(2), for 30 consecutive days an Affordable Connectivity Program service that does not require the participating provider to assess and collect a monthly fee from its subscribers, the participating provider shall provide the subscriber 15 days' notice, using clear, easily understood language, that the subscriber's failure to use the Affordable Connectivity Program service within the 15-day notice period will result in service termination for non-usage under this paragraph (c).

* * * * *

■ 8. Effective April 15, 2022, amend § 54.1810 by adding paragraphs (a) and (b) to read as follows:

§ 54.1810 Consumer protection requirements.

(a) *Disclosures and consents for enrollment.* Prior to enrolling a consumer in the Affordable Connectivity Program, participating providers shall obtain affirmative consumer consent either orally or in writing that acknowledges that after having reviewed the required disclosures about the Affordable Connectivity Program, the household consents to enroll with the provider.

(1) The disclosures that shall be presented to the consumer shall convey in clear, easily understood terms that:

(i) The Affordable Connectivity Program is a government program that reduces the customer's broadband internet access service bill;

(ii) The household may obtain Affordable Connectivity Program-supported broadband service from any participating provider of its choosing;

(iii) The household may apply the affordable connectivity benefit to any broadband service offering of the participating provider at the same terms available to households that are not eligible for Affordable Connectivity Program-supported service;

(iv) The provider may disconnect the household's Affordable Connectivity Program-supported service after 90 consecutive days of non-payment;

(v) The household will be subject to the provider's undiscounted rates and general terms and conditions if the Affordable Connectivity Program ends, if the consumer transfers their benefit to another provider but continues to receive service from the current provider, or upon de-enrollment from the Affordable Connectivity Program; and

(vi) The household may file a complaint against its provider via the Commission's Consumer Complaint Center.

(2) If standard disclosure and consent language has been provided by the Commission, providers shall present that language to consumers prior to enrollment.

(3) A participating provider shall not link enrollment in the Affordable Connectivity Program to some other action or information supplied to the provider for purposes other than the Affordable Connectivity Program, including but not limited to:

(i) Not clearly distinguishing the process of signing up for ACP-supported services and devices from the process of signing up for, renewing, upgrading, or modifying other services, including Lifeline-supported services;

(ii) Suggesting or implying that signing up for ACP-supported services and devices is required for obtaining or continuing other services, including Lifeline-supported services; and

(iii) Tying the submission of customer information provided for another purpose (*e.g.,* address verification or equipment upgrade or replacement) to enrollment in the Affordable Connectivity Program.

(b) *Transfers in the Affordable Connectivity Program.* Participating providers shall comply with the following requirements for transferring an eligible household's affordable connectivity program benefit between providers.

(1) *Disclosures and subscriber consent.* (i) Prior to transferring an eligible household's affordable connectivity program benefit, the provider transferring in the household shall obtain the household's affirmative consent either orally or in writing that acknowledges that after having reviewed the required disclosures, the household consents to transfer its benefit to the transfer-in provider.

(ii) The oral or written disclosures shall be provided in clear, easily understood language and convey the following information:

(A) That the subscriber will be transferring its affordable connectivity program benefit to the transfer-in provider;

(B) That the effect of the transfer is that the subscriber's affordable connectivity program benefit will be applied to the transfer-in provider's service and will no longer be applied to service retained from the transfer-out provider;

(C) That the subscriber may be subject to the transfer-out provider's undiscounted rates as a result of the transfer if the subscriber elects to maintain service from the transfer-out provider; and

(D) That the subscriber is limited to one affordable connectivity program benefit transfer transaction per service month, with limited exceptions for situations where the subscriber seeks to reverse an unwanted transfer or is unable to receive service from a specific provider.

(iii) The household's oral or written consent shall:

(A) Clearly identify the subscriber name;

(B) Acknowledge the subscriber was provided the disclosure language required under paragraph (b)(1)(ii) of this section;

(C) Indicate that having received the required disclosures, the subscriber gave its informed consent to transfer its benefit to the transfer-in provider; and

(D) Indicate the date of the subscriber's consent.

(iv) Participating providers shall use any standard consent and disclosure language provided by the Commission.

(v) Participating providers shall satisfy the disclosure and consent requirements for each transfer transaction.

(2) *Notification to subscribers.* Within five business days of completing a subscriber transfer in the National Lifeline Accountability Database, the transfer-in provider shall provide written notice to the transferred subscriber that indicates the following:

(i) The name of the transfer-in provider to which the subscriber's affordable connectivity program benefit was transferred;

(ii) The date the transfer was initiated; and

(iii) An explanation of the dispute process if the subscriber believes the transfer was improper.

(3) *Limitation on transfers per month.* Participating subscribers can only transfer their affordable connectivity benefit between providers once in a given service month, with the following limited exceptions:

(i) The subscriber's benefit was improperly transferred;

(ii) The subscriber's service provider ceases operations or fails to provide service;

(iii) The subscriber's current service provider is found to be in violation of affordable connectivity program rules, and the violation impacts the subscriber for which the exception is sought;

(iv) The subscriber changes its location to a residential address outside of the provider's service area for the Affordable Connectivity Program.

* * * * *

[FR Doc. 2022–02887 Filed 2–11–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–450; FCC 22–2; FRS 71007]

Affordable Connectivity Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks comment on proposals for increasing awareness of and participation in the Affordable Connectivity Program and for an enhanced affordable connectivity benefit for consumers in certain high-cost areas.

DATES: Interested parties may file comments on or before March 16, 2022 and reply comments on or before April 15, 2022.

ADDRESSES: All filings should refer to WC Docket No. 21–450. Comments may be filed by any of the following methods:

▪ *Electronic filers:* You may file comments electronically by accessing the Commission's Electronic Comment Filing System (ECFS) at *https://www.fcc.gov/ecfs/filings.*

▪ *Paper filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. Parties that need to submit confidential filings to the Commission should follow the instructions provided in the Commission's March 31, 2020 public notice regarding the procedures for submission of confidential materials. *See FCC Provides Further Instructions Regarding Submission of Confidential Materials,* Public Notice, DA 20–361, 35 FCC Rcd 2973 (OMD, March 31, 2000), *https://docs.fcc.gov/public/attachments/DA-20-361A1_Rcd.pdf.* All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

• Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

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

Ex Parte Rules. This proceeding shall continue to be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consists in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). Written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the Electronic Comment Filing System and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Eric Wu, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, at *eric.wu@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking* (FNPRM) in WC Docket No. 21–450, FCC 22–2, adopted January 14, 2022, and released January 20, 2022. The full text of this document is available at *https://docs.fcc.gov/public/attachments/FCC-22-2A1.pdf.* The Report and Order that was adopted concurrently with this Notice of Proposed Rulemaking is to be published elsewhere in the **Federal Register**.

I. Introduction

1. The Commission seeks comment on aspects of the Infrastructure Investment and Jobs Act (Infrastructure Act) and proposals for increasing awareness of and participation in the Affordable Connectivity Program. Specifically the Commission seeks comment on three sets of issues: (1) Structuring an outreach grant program; (2) establishing a potential pilot program focused on increasing the awareness and enrollment of eligible households participating in Federal Public Housing Assistance Programs in the Affordable Connectivity Program; and (3) implementing a mechanism for determining the application of the enhanced benefit for those serving high-cost areas, as to be determined by the National Telecommunications Information Administration (NTIA).

A. Outreach Grant Program

2. *Grant Program.* The Affordable Connectivity Program will rely heavily on outreach efforts to make eligible households aware of and informed about the program. As evidenced in the record, certain segments of eligible households that would benefit from the program currently have low participation rates. The Infrastructure Act provides that the Commission may conduct various outreach efforts to encourage households to enroll in the Affordable Connectivity Program. The notice commencing this proceeding (referred to as *ACP Public Notice*) sought comment on the use of these statutorily authorized outreach tools, including the authority to provide grants to outreach partners. *See Wireless Competition Bureau Seeks Comment on the Implementation of the Affordable Connectivity Program,* Proposed Rule, 88 FR 74036, 74056–57, paras. 108–112 (Dec. 29, 2021) (*ACP Public Notice*). As further explained in the Report and Order accompanying this Further Notice of Proposed Rulemaking (FNPRM), the Commission endeavors to use a variety of outreach tools permitted under the

statute to reach eligible consumers, including but not limited to people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality. In addition to the Commission's own outreach efforts, outreach partners also play an important role in disseminating information about the Affordable Connectivity Program; and grant funding would help expand these outreach efforts and improve their effectiveness.

3. Any agency establishing a grant program must do so in strict compliance with 2 CFR part 200 and other regulations and statutes applicable to Federal grants. However, while the Commission typically administers various types of financial assistance programs, it does not have experience with the unique statutory and regulatory requirements applicable to Federal grant programs. While the present record evinces strong support for the establishment of a grant program to promote awareness of and enrollment in the Affordable Connectivity Program and identifies several potential uses of outreach funds, the structure and implementation of such a program requires further exploration due to the unique statutory and regulatory requirements of the Federal grant program, which the Commission has not previously administered. Accordingly, the Commission seeks additional comment and feedback on structuring an outreach grant program to be managed by the Commission in support of consumer outreach concerning the Affordable Connectivity Program, as permitted in the Infrastructure Act.

4. Several commenters support the establishment of an outreach grant program and offer various recommendations and relevant insights. For instance, EducationSuperHighway cites the Internal Revenue Service's (IRS) Volunteer Income Tax Assistance (VITA) Program as a useful example that the Commission should look to as a model. Are there other analogous Federal outreach grant programs the Commission should consider as good models for establishing an outreach grant program besides those already identified in the record? The Commission especially encourages interested parties that have experience serving people of color, persons with disabilities, persons who live in rural or Tribal areas and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, including State, local and Tribal governments and non-profit community-based organizations, to identify Federal grant programs that they have found to be helpful in those efforts.

5. The Commission seeks comment on the duration and budget for an outreach grant funding program and proposes to create a multiple-year outreach grant program to align with the expectation that the Affordable Connectivity Program will extend for multiple years. Should this multi-year program require grantees to submit new applications periodically? Should the Commission instead consider establishing a one-time, limited duration outreach grant program? The Commission also seeks comment on the appropriate funding amount for a grant program.

6. As reflected in the record, commenters support the Commission using a wide variety of outreach methods to take advantage of the statutory tools provided in the Infrastructure Act, including the establishment of an outreach grant program Are there particular types of outreach activities toward which the Commission should consider targeting outreach grant funds? Tech Goes Home emphasizes the importance of ensuring that adequate resources are provided to local outreach partners to prevent additional financial burdens. How much funding might grantees need in order to execute effective outreach efforts? The Commission seeks comment on estimated ranges of outreach grant awards, taking into consideration the range of costs that may be associated with outreach efforts, including those identified in the record, and on potential per-application funding caps. The Commission also seeks comment on types of support and outreach material the Commission could provide to help outreach partners. Should the Commission provide technical assistance to grantees? What would be valuable technical assistance to grantees and how might technical assistance evolve over the duration of the grant program implementation?

7. The Commission next seeks comment on entities that should be eligible for outreach grant funding. The record reflects support for relying on non-profit organizations and trusted community organizations as outreach partners for the Affordable Connectivity Program. AARP recommends that preference in grant awards should be given to organizations with established public interest credentials, preferably non-profit organizations, that have strong ties with key communities, including multi-cultural communities, and that grant applicants be required to provide examples of successful past outreach initiatives. The County of Los Angeles recommends that the Commission consider awarding grants to local governments, including counties, cities, and other entities, to further develop hyper-local campaigns, taking into consideration language needs, digital literacy, social media trends, relevant linear media, and other local factors. The Commission seeks comment on the types of entities that should be deemed eligible to receive potential outreach grant funding. If non-profit organizations are eligible for funds, should eligibility be limited to non-profit organizations with tax exempt status under 26 U.S.C. 501(c)(3)? Should State, local, and Tribal governments, including associated social service agencies, school districts, libraries, public housing authorities, State governmental entities that carry out workforce development programs, or State agencies that are responsible for administering or supervising adult education and literacy activities in the State, be eligible to receive grant funds? Are there other types of organizations that should be eligible?

8. Grantees would be required to adhere to applicable Federal grantee regulations, including but not limited to taking all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. *See* 2 CFR 200.321(a). Should use of outreach grant funds be limited to the named grant recipient, or should funding recipients be permitted to use subgrantees? Would allowing subgrantees significantly complicate the administration of an outreach grant program? Do other outreach grant programs typically permit subgrantees? Is there evidence that the funding of subgrantees can lead to improved, targeted outreach?

9. The Commission also seeks comment on the application process, reporting, and other requirements for a potential outreach grant program. Interested parties should refer to the Uniform Administrative Requirements, Cost Requirements, and Audit Requirements for Federal Awards, 2 CFR part 200, as well as the general reporting requirements in 2 CFR parts 25 and 170. The National Digital Inclusion Alliance requests that the application process, reporting requirements, and financial requirements be minimally burdensome, to the extent possible and recommends that the Commission should ''limit barriers to participation by small organizations that are trusted in their communities but have limited capacity

to participate in large Federal grant programs. The Commission invites commenters that have received Federal grants to address the grantee experience, including the grant application process, their use of grant funds, and best practices with respect to financial and reporting requirements for grant recipients, particularly for outreach grants. Should the application and selection process for a potential outreach grant program be competitive? The Commission seeks comment on how the Commission could structure an application and evaluation process to maximize the potential reach and effectiveness of outreach grant funding.

10. An outreach grant program should maximize the number of eligible consumers participating in the Affordable Connectivity Program. The Commission seeks comment on whether awarding funding to applicants from a range of organization types and sizes (*e.g.,* nationwide, regional, local, and smaller organizations) and ensuring diversity in geographic areas and intended outreach populations will best serve the underlying goal of increasing enrollment in the program. To do so effectively, the Commission has a strong interest in selecting grant applications that would target underserved populations and areas where the funding will have the most impact on increasing awareness of and, consequently, enrollment in the Affordable Connectivity Program. Should special consideration be given to prior experience working with or conducting outreach to such communities? The Commission seeks comment on what types of information should be sought from applicants in order to enable it to make informed decisions about the merits of the applications, including the reach of applicant organizations and the populations that they target. What metrics should the Commission take into account when considering applications and selecting grantees?

11. The Commission seeks comment on establishing goals and metrics to track the outreach grant program's performance of the goals of promoting awareness of the Affordable Connectivity Program and enrollment by eligible households. What metrics could track performance towards the goal of increasing enrollment? What other measurable goals and metrics would be appropriate for an outreach funding program? The Commission also seeks comment on appropriate performance metrics and milestones for potential grantees. Consistent with the statutory and regulatory requirements of grant programs, what factors could the Commission require grantees to track to help measure the real impact of supported outreach activities? What steps should the Commission take to aggregate and report the performance data received from the grantees? What would be appropriate periods of time for reporting (*e.g.,* annually or semi-annually) and assessing performance (*e.g.,* one year or three years)?

12. Any agency establishing a grant program must do so in compliance with 2 CFR, subtitle A, *Office of Management and Budget Guidance for Grants and Agreements,* and other regulations and statutes applicable to Federal grants. Because the Commission has not previously implemented a grant program, however, it must adopt rules or delegate authority to the Wireline Competition Bureau and the Office of Managing Director in order to ensure compliance with the government-wide requirements applicable to grant programs, including 2 CFR parts 25, 170, 175, 180, 182, and 200. Grant programs also must comply with requirements established in appropriations legislation. *See, e.g.,* Public Law 116–260, 134 Stat. 1182, 1439–1442 (Dec. 27, 2020) limitations on conference expenses, prohibition of whistleblowing confidentiality agreements, and restrictions on grants to entities with unpaid Federal tax liabilities or recent felony convictions). Parties are encouraged to comment on the Commission's implementation of those requirements, especially in light of the objectives of the outreach grant program.

B. Pilot Program Focused on Eligible Households Participating in Federal Public Housing Assistance Programs

13. Under the supervision of the Department Housing and Urban Development (HUD), city and State housing authorities administer Federal Public Housing Assistance (FPHA) programs, such as the housing choice voucher program (Section 8), project-based rental assistance, and public housing, that benefit millions of Americans, including extremely low-income families. Congress and the Commission have long recognized the importance of connecting these households to Lifeline communications services and, more recently, to services supported by the Emergency Broadband Benefit (EBB). The record demonstrates that large numbers of households in public housing would benefit from the Affordable Connectivity Program.

14. In working to expand participation in the Affordable Connectivity Program, the Commission reaffirms the importance of connecting FPHA beneficiaries that are eligible for the Affordable Connectivity Program. Most of these households were eligible for the predecessor EBB Program, but only a small share of them enrolled in the EBB Program.[1] Additional steps and innovative approaches are needed to help ensure that the Affordable Connectivity Program reaches the lowest-income Americans. To that end, the Commission seeks comment on launching a pilot program focused on expanding ACP participation by FPHA beneficiaries, including increasing awareness and assisting with navigating the enrollment process. Are there other obstacles to ACP enrollment for FPHA beneficiaries that should be addressed?

15. The Infrastructure Act requires the Commission to collaborate with relevant Federal agencies and permits the Commission to engage in outreach efforts to encourage eligible households to enroll in the Affordable Connectivity Program. To this end, the Commission intends to use a wide range of available outreach tools to increase awareness of and participation in the Affordable Connectivity Program. The record demonstrates that there is particular need for increased outreach to raise awareness of and participation in the Affordable Connectivity Program among low-income Americans who participate in the FPHA programs. Accordingly, the Commission is interested in exploring innovative ways that the Commission could partner with agencies that administer the FPHA programs on outreach and enrollment for the Affordable Connectivity Program. The Commission first seeks assistance in identifying the specific partner agencies for these efforts. In particular, the Commission seeks comment on the types of collaborative cross-agency outreach that would be most effective at reaching this population. Are there examples of cross-agency marketing and outreach efforts that the Commission should look to as models for these efforts? Are there other models the Commission should look to in designing and implementing these cross-agency efforts? What sources of data should the Commission consider to identify specific locations where such cross-agency outreach and marketing efforts are most likely to have a significant impact?

16. The Commission also seeks comment on ways to make outreach through the partnerships as effective as possible by identifying and developing specific outreach and marketing efforts to be conducted through this pilot. Are there proven methods for communicating well with FPHA beneficiaries? What should the scope

and duration of these efforts be? The Commission also seeks comment on whether and how it can partner with third parties, including non-profit organizations, to help identify, develop, and carry out these marketing and outreach efforts. Should the Commission use Affordable Connectivity Program funding designated for outreach for these efforts?

17. Heightening FPHA beneficiaries' awareness of the Affordable Connectivity Program alone may not be enough to significantly increase their participation in the program, and accordingly, the Commission seeks comment on how to best assist FPHA households in accessing or navigating the program application process. The Commission expects that partner agencies have regular opportunities to interact in person with members of households eligible for the Affordable Connectivity Program. Should the Commission encourage partner agencies to establish, as part of this pilot, assistance locations on site where eligible household members can complete and submit applications for the Affordable Connectivity Program? What are the benefits of such arrangements? This effort could impose some additional burdens on the staff and resources of partner agencies; how can the Commission reduce such burdens? Should the Commission direct the Universal Service Administrative Company (USAC) to give those agencies access to the National Verifier (as defined in 47 CFR 54.1800(q)) in order to assist applicants who are physically present with completing and submitting applications for the Affordable Connectivity Program?

18. The Commission proposes to require any representatives that are granted access to the National Verifier to register in the Representative Accountability Database, consistent with 47 CFR 54.1807(a), and to indicate that they are providing such assistance when they help consumers submit applications through the National Verifier. The Commission seeks comment on this proposal and on additional ways to help eligible FPHA households enroll. Are there other models for providing enrollment assistance the Commission should consider?

19. The Commission seeks comment on how to measure the success of this pilot in increasing awareness of and enrollment in the Affordable Connectivity Program by participants in qualifying Federal Public Housing Assistance Programs.

C. Implementation of the Enhanced Benefit for High-Cost Areas

20. The Infrastructure Act provides for a separate enhanced affordable connectivity benefit for households that are served by providers in high-cost areas (as the term high-cost areas is defined in a separate section of the Infrastructure Act), with such areas to be identified by the National Telecommunications Information Administration (NTIA) in consultation with the Commission. 47 U.S.C. 1752(a)(7)(B) (the ''high-cost provision''). Specifically, the Infrastructure Act establishes that a discount of up to $75 per month may be applied to a provider's broadband service ''upon a showing that the applicability of the lower [$30.00 maximum benefit that applies elsewhere] to the provision of the affordable connectivity benefit by the provider would cause particularized economic hardship to the provider such that the provider may not be able to maintain the operation of part or all of its broadband network.'' 47 U.S.C. 1752(a)(7)(B). The *ACP Public Notice* sought comment on what the mechanism should be, and what a provider should be required to submit to show a ''particularized economic hardship.'' *ACP Public Notice,* paras. 71–73. While the present record includes some comments on this high-cost provision, the establishment of this mechanism requires further exploration given the interplay with other areas of the Infrastructure Act. including the definition of high-cost areas in 47 U.S.C. 1702(a)(2).

21. The high-cost areas provision incorporates the definition of ''high-cost area'' in 47 U.S.C. 1702(a)(2)(G)(i), as ''an unserved area in which the cost of building out broadband service is higher, as compared with the average cost of building out broadband service in unserved areas in the United States,'' as determined by NTIA in consultation with the Commission. In turn, the term unserved area is defined as ''an area in which not less than 80 percent of broadband-serviceable locations are unserved locations.'' 47 U.S.C. 1702(a)(2)(G)(ii). *See also* 47 U.S.C. 1702(a)(2)(H) (defining ''broadband-serviceable location''); 47 U.S.C. 1702(a)(1)(A) (defining ''unserved location''). The Commission seeks comment on how to interpret and apply the definition of ''high-cost area'' in 47 U.S.C. 1702(a)(2)(G)(i) for purposes of the Affordable Connectivity Program, including whether such high-cost areas need to be unserved or if they can include high-cost areas that are served or unserved by an existing broadband provider. *See also* 47 U.S.C. 1702(a)(2)(H) (defining ''broadband-serviceable location''); 47 U.S.C. 1702(a)(1)(A) (defining ''unserved location'').

22. The Commission seeks additional comment on the mechanism by which a provider can show particularized economic hardship. Should the Commission set clear standards or benchmarks for providers on what constitutes particularized economic hardship? In their comments on the *ACP Public Notice,* both NTCA and Conexon contend that a provider may face particularized economic hardship when the expected revenue from a substantial number of eligible households plus the high-cost universal service support it receives and the $30 monthly affordable connectivity benefit do not cover the cost of serving the designated high cost area, including depreciation expense, operating expense, the cost of capital, and other associated expenses, thus making it uneconomic to justify the incremental private investment needed to maintain the operation of that part of its network. Other commenters assert that commercial mobile carriers should be able to demonstrate that one or more cell sites may be decommissioned in the absence of a higher ACP benefit, or alternatively, would not be decommissioned if the higher ACP benefit is provided. The Commission seeks comment on the best method of determining whether providers face a particularized economic hardship. What constitutes a substantial number of eligible households? What considerations should be used to determine a provider's expected revenues? When a provider has a depressed take-rate, how can the Commission determines the cause is because households in that area cannot afford internet? How can the Commission assess the amount of revenue that providers need to maintain the operation of networks serving households in the designated high-cost areas? The Commission also seeks comment on other standards and tests the Commission should consider to make this determination.

23. The Commission also invites comment on the specific information that providers should provide in order to show particularized economic hardship. What information (such as revenues, cost models, capital expenditures, etc.) should a provider be required to submit to show that increased subsidies from the Affordable Connectivity Program are necessary for the provider to maintain its network? Alternatively, is there a level of poverty

that could be applied in all high-cost areas to determine where carriers face particularized economic hardship? What information is publicly available for the Commission to consider in making such a determination? Should the Commission take into consideration other subsidies and financial benefits used by providers in determining a provider's request for high-cost treatment in the Affordable Connectivity Program?

24. The *ACP Public Notice* sought comment on who should decide whether the provider met the standard for this enhanced benefit and the Commission seeks further comment on how this review process should be implemented. What else should the Commission consider when setting up the process for making determinations about a household's eligibility to receive this enhanced subsidy?

25. The Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. *See Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,* E.O. No. 13985, 86 FR 7009 (Jan. 20, 2021). Specifically, the Commission seeks comment on how these

26. proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

II. Procedural Matters

Initial Paperwork Reduction Act of 1995 Analysis

27. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3501 *et seq.*). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

28. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

29. *Need for, and Objectives of, the Proposed Rules.* The FNPRM seeks comment on a multi-year grant program to support the efforts of outreach partners to inform potentially eligible households about the Affordable Connectivity Program and encourage them to enroll in the program, including the types of entities that could be eligible to apply for and receive grants, potentially including non-profit organizations, State, local, and Tribal governments, social service agencies, school districts, and libraries. The FNPRM also proposes and seeks comment on a pilot program focused on expanding ACP participation by beneficiaries of Federal Public Housing Assistance (FPHA) programs (housing choice voucher program (Section 8), project-based rental assistance, and public housing) by increasing their awareness of the program and helping them enroll, to be implemented in conjunction with agencies that administer the FPHA programs. In addition, the FNPRM seeks comment on rules to implement the enhanced affordable connectivity benefit of up to $75.00 per month that the Infrastructure Act provides to eligible households for broadband service offered by participating providers in certain high-cost areas, including the definition and identification of high-cost areas; the standards for a participating provider's showing of particularized economic hardship, the information it would need to submit (such as revenues, cost models, and capital expenditures), and the process of reviewing such showings.

30. *Legal Basis.* The proposed actions are authorized pursuant to the Infrastructure Act, div. F, tit. V, section 60502(a)(3)(B), 47 U.S.C. 1752(a)(7)(B) and (b)(10)(C).

31. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The small entities that might be eligible to apply for grants under the proposed outreach grant program include approximately 49,000 small governmental jurisdictions and 572,000 small non-profit organizations, based on SBA definitions and data from the U.S. Census Bureau and other sources. A small subset of these entities might be eligible to seek to participate in the pilot program focused on public housing beneficiaries. The proposed rules concerning the enhanced affordable connectivity benefit could apply to approximately 3,000 wired broadband internet access service providers and 1,000 wireless broadband internet access service providers, if such providers opted to participate in the program and seeks to offer the enhanced benefit in high-cost areas where they can show particularized economic hardship.

32. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* The Commission anticipates that any grant-related rules that it adopts, following the Uniform Guidance that applies to all Federal agencies (potentially with additional implementation details), *see* 79 FR 75872 (Dec. 19, 2014), will not have a significant economic impact on a substantial number of small entities. Providers of wireline or wireless broadband internet access services, including small businesses, that voluntarily seek to qualify for the enhanced benefit might need to report and retain certain data about their operations. The precise nature of the necessary data cannot be ascertained at this time and the cost of compliance cannot be quantified, but any recordkeeping or reporting requirements would apply only to those providers that voluntarily participate and opt to seek the enhanced benefit, and the Commission believes that such providers will likely enjoy benefits that far exceed the reporting and recordkeeping costs.

33. *Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* The rules and requirements that the Commission ultimately adopts to implement the enhanced benefit in high-cost areas will be explicitly designed to accommodate and provide structure for the particularized showings of economic hardship that all applicants, including small entities, will need to submit. The particularized nature of each of these showings will inherently accommodate the particular circumstances of each applicant, including any small entity that chooses to apply for the benefit. The

Commission is hopeful that the comments it receives will further address matters impacting small entities and will include information, data and analyses relating to these matters.

34. *Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals:* None.

Ordering Clause

35. Accordingly, *it is ordered* that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, as amended by Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021), this Further Notice of Proposed Rulemaking *is adopted.*

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–02908 Filed 2–11–22; 8:45 am]

BILLING CODE 6712–01–P

Reader Aids

Federal Register

Vol. 87, No. 30

Monday, February 14, 2022

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5389–5654 1
5655–6016 2
6017–6402 3
6403–6758 4
6759–7024 7
7025–7356 8
7357–7678 9
7679–7926 10
7927–8138 11
8139–8390 14

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10336 6395
10337 6397
10338 6401
10339 7357
Executive Orders:
13502 (revoked by 14063) 7363
14063 7363
Administrative Orders:
Presidential Determinations:
Presidential Determination No. 2022–09 of Feb. 1, 2022 6759
Notices:
Notice of February 7, 2022 7677

5 CFR

Proposed Rules:
Ch. III 5409

6 CFR

5 6403

7 CFR

210 6984
215 6984
220 6984
226 6984
460 7927
915 8139
944 8139
3550 6761
3555 6773
5001 7367
Proposed Rules:
205 5424
985 8211
4284 8217

8 CFR

214 6017
274a 6017

10 CFR

Proposed Rules:
50 6434
429 ..... 5560, 6436, 6948, 7048
430 ..... 5742, 6786, 7396, 7758
431 ..... 5560, 6436, 6948, 7048

12 CFR

Proposed Rules:
701 6078

14 CFR

25 ..... 6017, 8143, 8145, 8147
39 ..... 5389, 5391, 6404, 6777, 7025, 7027, 7029, 7033, 7368, 7679, 7681, 7683, 7685, 7687, 7690, 7692, 7695, 7698, 7701, 7703, 7705, 7708, 7710, 7713, 7931, 8150, 8152, 8158, 8167, 8169, 8172, 8174, 8178
71 ..... 6406, 6408, 6409, 6410, 6412, 6413, 7715
97 ..... 6019, 6021
399 5655
Proposed Rules:
27 6437
39 ..... 5428, 6082, 6087, 6089, 6091, 6795, 6798, 6802, 7056, 7059, 7062, 7065, 7397, 7765, 7768, 7770, 7774, 7965
71 ..... 5747, 6439, 6804, 7400, 7776
183 7068
193 7968

15 CFR

734 6022
736 6022
744 ..... 6022, 7037, 8180
774 6022
Proposed Rules:
30 6440
Ch. VII 7777

16 CFR

Proposed Rules:
1112 6246
1261 6246

17 CFR

249 7934
Proposed Rules:
229 5751
240 ..... 5751, 6652
249 5751
270 7248
274 7248

18 CFR

381 5659

20 CFR

641 8186
655 6017
Proposed Rules:
220 6094
641 8218

21 CFR

1 5660
866 6415
870 ..... 6417, 8190

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List February 4, 2022

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1*

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.